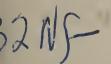
Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.





FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

18751-18800

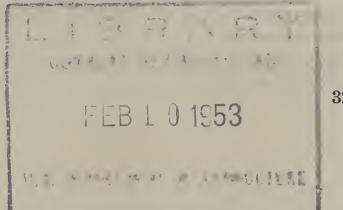
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, Commissioner of Food and Drugs. Washinton, D. C., January 22, 1953.

CONTENTS

	Page		Page
Candy, chocolate products, and		Feeds and grains	340
sirup	330	Fish and shellfish	342
Candy	330	Fruits and vegetables	344
Chocolate products	330	Canned fruit	344
Sirup	331	Dried fruit	345
Cereals and cereal products	332	Frozen fruit	346
Flour	332	Vegetables	348
Macaroni and noodle products	333	Tomatoes and tomato products	349
Miscellaneous cereals	338	Nuts	350
Dairy products	339	Oleomargarine	351
Butter	339	Poultry	352
Cheese	339	Index	353



235102--53----1

329

CANDY, CHOCOLATE PRODUCTS, AND SIRUP

CANDY

18751. Adulteration of candy. U. S. v. Arcangelo Cataldo (Liberty Chocolate Co.). Plea of guilty. Fine, \$1,000. (F. D. C. No. 31113. Sample Nos. 5130-L to 5132-L, incl., 24604-L, 24706-L.)

INDICTMENT RETURNED: May 15, 1952, District of Massachusetts, against Arcangelo Cataldo, trading as the Liberty Chocolate Co., Boston, Mass.

ALLEGED SHIPMENT: On or about January 9, February 2, and March 2 and 5, 1951, from the State of Massachusetts into the States of Rhode Island, New Jersey, and New York.

Label, in Part: "Spearmint Leaves," "Nougatines," or "Lady Celene Sweets Chocolates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of rodent hairs, rodent excreta, insects, and insect fragments; and Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 22, 1952. A plea of guilty having been entered, the court imposed a fine of \$1,000.

18752. Adulteration of candy. U. S. v. 6 Cases, etc. (F. D. C. No. 32316. Sample Nos. 15622–L to 15624–L, incl.)

Libel Filed: On or about January 2, 1952, District of Kansas.

ALLEGED SHIPMENT: On or about November 15, 1951, by the Carmelita Candy Co., from Tulsa, Okla.

Product: 235 pounds of candy at Osawatomie, Kans.

LABEL, IN PART: "Christmas Mix," "Broken Taffy," and "Assorted Pillow."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 18, 1952. Default decree of condemnation and destruction.

CHOCOLATE PRODUCTS

18753. Adulteration of chocolate-flavored sirup. U. S. v. 354 Cases * * *. (F. D. C. No. 32993. Sample No. 1973-L.)

LIBEL FILED: March 31, 1952, Southern District of Florida.

Alleged Shipment: On or about January 25, 1947, from Cincinnati, Ohio.

Product: 354 cases, each containing 24 1¼-pound jars, of chocolate-flavored sirup at Miami, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 2, 1952. Default decree of forfeiture and destruction.

18754. Adulteration of cocoa beans. U. S. v. 175 Bags * * * (and 1 other seizure action). (F. D. C. No. 30139. Sample Nos. 74158-K, 74159-K.)

LIBELS FILED: November 16, 1950, Northern District of New York.

ALLEGED SHIPMENT: On or about November 24, 1949, and January 7, 1950, from Port of Spain, Trinidad.

Product: 425 200-pound bags of cocoa beans at Fulton, N. Y.

Nature of Charge: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and wormy beans, and of a decomposed substance by reason of the presence of moldy beans. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 7, 1951. Peter, Cailler, Kohler Swiss Chocolate Co., Inc., Fulton, N. Y., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for the purpose of salvaging the fit portion, under the supervision of the Federal Security Agency. The salvaging operations resulted in the destruction of 4,980 pounds of the product as unfit.

18755. Adulteration of cocoa beans. U. S. v. 100 Bags * * * *. (F. D. C. No. 32287. Sample No. 7270–L.)

LIBEL FILED: December 18, 1951, Western District of New York.

ALLEGED SHIPMENT: On or about November 14, 1951, from Brazil.

PRODUCT: 100 140-pound bags of cocoa beans at Rochester, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 21, 1952. Wessel, Duval & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be fumigated and cleaned and the unfit portion segregated and destroyed, under the supervision of the Federal Security Agency. Segregation operations resulted in the salvaging of 94—130-pound bags of cocoa. The rejected portion, amounting to 520 pounds, was denatured.

SIRUP

18756. Adulteration and misbranding of sorghum sirup. U. S. v. 163 Cans

* * *. (F. D. C. No. 32304. Sample No. 34204–L.)

Libel Filed: January 2, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about November 15, 1951, by G. L. Rutledge, from Walnut, Miss.

Product: 163 1-gallon cans of sorghum sirup at Memphis, Tenn.

LABEL, IN PART: "Sorghum."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, sugar, and corn sirup had been substituted for sorghum; and, Section 402 (b) (4), sugar and corn sirup had been added to the product and mixed and packed with it so as to increase its bulk or weight.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading; Section 403 (e) (2), the product failed to bear a label con-

taining an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: February 6, 1952. The Kass Produce Co., Memphis, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

18757. Misbranding of sorghum sirup. U. S. v. 160 Cans * * * *. (F. D. C. No. 32317. Sample No. 34205–L.)

LIBEL FILED: January 2, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about October 29, 1951, by John Woods, from Thrasher, Miss.

PRODUCT: 160 1-gallon cans of sorghum sirup at Memphis, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture containing corn sirup and sucrose had been substituted for pure sorghum sirup.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, pure sorghum sirup; Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and it failed to bear a label statement of the common or usual names of such ingredients.

DISPOSITION: May 14, 1952. John Woods, Memphis, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

CEREALS AND CEREAL PRODUCTS

FLOUR

18758. Adulteration of flour. U. S. v. 52 Bags * * * (F. D. C. No. 32630. Sample No. 48235–L.)

LIBEL FILED: January 26, 1952, Northern District of Iowa.

ALLEGED SHIPMENT: On or about July 26, 1950, from Grand Forks, N. Dak.

PRODUCT: 52 100-pound bags of flour at Mason City, Iowa, in possession of the Mason City Warehouse Corp.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and insects; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 6, 1952. The Russell-Miller Milling Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and conversion into animal feed, or destruction of the unfit portion, under the supervision of the Federal Security Agency. The entire lot was denatured for use as animal feed.

- 18759. Adulteration of flour. U. S. v. 63 Bags * * *. (F. D. C. No. 32631. Sample No. 48236–L.)
- LIBEL FILED: January 26, 1952, Northern District of Iowa.
- ALLEGED SHIPMENT: On or about November 29, 1951, from Wichita, Kans.
- PRODUCT: 63 50-pound bags of flour at Waterloo, Iowa, in possession of Merchants Supply, Inc.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent filth; and, Section 402 (a) (4) it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: February 28, 1952 Default decree of condemnation. The court ordered that the product be sold for use as animal feed or that it be delivered to an institution for use as animal feed.

MACARONI AND NOODLE PRODUCTS

- 18760. Adulteration of canned spaghetti with cheese. U. S. v. 1,560 Cases * * * (and 3 other seizure actions). Claim and answer filed. Cases ordered consolidated and transferred to District Court for Eastern District of Illinois. Tried to the court. Judgment for the Government. Decree of condemnation and destruction entered. Claimant's motion for new trial denied. (F. D. C. Nos. 30142 to 30144, incl., 30178. Sample Nos. 14757-K, 84818-K to 84820-K, incl.)
- LIBELS FILED: November 17 and December 5, 1950, Southern District of Ohio and Eastern District of Michigan.
- ALLEGED SHIPMENT: On or about September 8 and 30 and October 9 and 12, 1950, by Viviano Foods, Inc., from St. Louis, Mo.
- PRODUCT: 2,004 cases, each containing 24 15%-ounce cans, of spaghetti with cheese at Cincinnati, Ohio, and 354 cases, each containing 24 15%-ounce cans, of the product at Detroit, Mich.
- LABEL, IN PART: (Cans) "Viviano Finest Quality * * * Spaghetti with Cheese."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material and a filthy substance by reason of the presence of maggots in 1 lot and fly eggs and maggots in the other.
 - Further adulteration, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: Viviano Foods, Inc., entered an appearance as claimant, filed an answer denying that the product was adulterated as alleged in the libels, and moved for consolidation and removal of the cases to the Eastern District of Illinois, which motion was granted.
 - On August 14, 1951, the cases were brought to trial before the court. The trial continued through August 15 and 16, 1951, and at its conclusion the court ordered that the Government and claimant submit briefs in lieu of oral argument. On November 12, 1951, the court handed down the following opinion in favor of the Government:

Wham, *Chief Judge*: "The above consolidated cases have been tried on their merits in this court by virtue of an order of consolidation and transfer entered by the United States District Judge for the Southern District of Ohio, entitled and reading as follows:

UNITED STATES OF AMERICA IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO WESTERN DIVISION

UNITED STATES OF AMERICA

vs.

44 Cases, more or less, of an article labeled in part 'Viviano Spaghetti with Cheese'

UNITED STATES OF AMERICA

VS.

400 Cases, more or less, of an article labeled in part 'Viviano Spaghetti With Cheese'

UNITED STATES OF AMERICA

VS.

1560 Cases, more or less, of an article labeled in part 'Viviano Spaghetti With Cheese'

UNITED STATES OF AMERICA

vs.

354 Cases, more or less, of Canned Spaghetti

No. 2516 (Civil) FDC No. 30143

In the District Court of the United States, for the Southern District of Ohio, Western Division, at Cincinnati.

No. 2517 (Civil) FDC No. 30144.

In the District Court of the United States, for the Southern District of Ohio, Western Division, at Cincinnati.

No. 2518 (Civil) FDC No. 30142,

In the District Court of the United States, for the Southern District of Ohio, Western Division, at Cincinnati.

No. 10052

In the District Court of the United States, for the Eastern District of Michigan, Southern Division, at Detroit.

ORDER

The motion of Viviano Foods, Inc., intervenor herein and claimant of the property that is libeled in the above captioned cases, coming on for hearing, and the Court being advised that a similar motion has been filed in a libel case pending in the Eastern District of Michigan, Southern Division, at Detroit, Michigan, and it appearing to the Court that the United States of America, through United States District Attorney is not opposed to the granting of said motion, and it appearing to the Court that in the cases pending in this jurisdiction and in the jurisdiction of the Eastern District of Michigan. Southern Division, the same claimant is involved, and it appearing to the Court that the claimant's principal place of business is in the City of St. Louis, State of Missouri, and it appearing to the Court that by granting the motion herein, it will effect an economy of time and traveling and other expenses, and it appearing to the Court that the United States District Court for the Eastern District of Illinois, sitting at the City of East St. Louis, State of Illinois, is a district located within reasonable proximity to the claimant's principal place of business,

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED that the motion for consolidation and transfer of said causes of action now pending in this Court and in the United States District Court for the Eastern District of Michigan, Southern Division, at Detroit, Michigan, are herewith consolidated and herewith transferred for trial to the United States District Court for the Eastern District of Illinois, sitting at the City of East St. Louis, State of Illinois.

It is further ordered that the Clerk of the United States District Court for the Southern District of Ohio, Western Division, promptly transmit a certified copy of this order and the records in the above entitled action, to the Clerk of the United States District Court for the Eastern District of Illinois, pursuant to Section 21 U. S. C. 334 [304] (f) (1).

(Signed) John H. Druffel, United States District Judge

"The F. D. C. number assigned each libel except the last appears in the title to said order and the F. D. C. number of the last is 30178. For purposes of convenience its F. D. C. number will be used to identify the particular case and shipment to which reference may be made in this memorandum.

"The principal place of business of the claimant, Viviano Foods, Inc., a corporation, is in St. Louis, Missouri, and this district is a district of reason-

able proximity to the claimant's principal place of business.

"The libels are based wholly on the federal statute commonly known as the Federal Food, Drug and Cosmetic Act, Title 21, Section 301, et seq. This Act rests upon the constitutional power of Congress to regulate interstate commerce, and seeks to keep interstate commerce free from deleterious, adulterated and misbranded articles of specified types to the end that public health and safety might be advanced. United States v. Walsh, 331 U. S. 432, 91 L. ed. 1585.

"The applicable provisions of the Act are set out as far as deemed necessary for the sake of clarity. The type of article here involved is food which is defined in the Act as 'articles used for food or drink for man or other animals.' 21 U. S. C. 321. 21 U. S. C. 334 [304] provides:

(a) Any article of food * * * that is adulterated * * * when introduced into or while in interstate commerce * * * shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found:

21 U. S. C. 342 [402] (a) provides:

A food shall be deemed to be adulterated—

(a) * * * (3), if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth.

"In each of the libels it is charged that the article is adulterated within the meaning of section 342 [402] (a) (3), Title 21 U. S. C., in that it consists wholly or in part of a decomposed substance by reason of presence therein of decomposed tomato material; and within the meaning of section 342 [402] (a) (4) in that it has been prepared under insanitary conditions whereby it may have become contaminated with filth. In libels F. D. C. No. 30144 adulteration is also charged within the meaning of section 342 [402] (a) (3) by reason of the presence in the article of a filthy substance by reason of the presence therein of maggots and in F. D. C. No. 30178 by reason of the presence in the article of a filthy substance by reason of the presence of fly eggs and maggots.

article of a filthy substance by reason of the presence of fly eggs and maggots. "By stipulations of counsel it was agreed that the four articles of food involved were shipped in interstate commerce at the time, in the manner, and to the consignees, as set out in the libels and that samples identified by number, dates and initials were taken by the government from each shipment before and after seizure. The samples taken were representative of each shipment. The only disputed questions of fact remaining in controversy and for determination in each libel were (1) whether the seized article consisted in whole or in part of any filthy or decomposed substance and (2) whether the article was prepared under insanitary conditions whereby it may have become contaminated with filth, as charged in the libel. The questions of law in each libel are (1) whether any filthy or decomposed substance found in the article, if any, constituted adulteration within the meaning of said section 342 [402] (a) (3) and whether the conditions under which the article was prepared, as shown by the evidence, were insanitary conditions whereby it may have

become contaminated with filth so as to constitute adulteration within the

meaning of section 342 [402] (a) (4).

"The articles of food seized in each case consisted of cans labeled in part 'Viviano Finest Quality Contents 15¾ Ozs. Net Spaghetti With Cheese.' The evidence showed that the articles of food consisted of spaghetti with cheese and tomato sauce prepared and packaged in the plant of Viviano Foods, Inc., St. Louis, Missouri; that the interstate shipments were made from said plant as follows: In F. D. C. No. 30143, on or about October 9, 1950; in F. D. C. No. 30144, on or about October 9, 1950; in F. D. C. No. 30142, on or about September 8, 1950, and in F. D. C. No. 30178, on or about September 30, 1950. It was stated by counsel for the government during the trial that there is no contention on the part of the government that the libeled products were or would be injurious to the health of a consumer.

"The testimony of Edwin J. Balfing, a Missouri state food inspector, was that he visited the plant in question on October 11 and again on October 13 to inspect it for sanitation. After describing the lay-out of the plant and method of operation he testified that on October 11 he was in the plant for two hours; that the plant occupied two floors of the building and part of the second floor was used as living quarters; that the windows, doors and openings in the plant were unscreened; that there were many flies and nothing to keep the flies from the ingredients; that the floor was wet with dripping sauce at the packing table; that paint was peeling from the ceiling against which cardboards that did not cover the table was used for protection; that a cat was on the premises and children playing around; that the processing and canning machinery were unclean; that he talked to John Viviano, the manager; that he was at the plant again on October 13 and found conditions the same; that he reported the conditions at the plant to the Federal Food and Drug Administration in St. Louis and on October 16 accompanied federal

inspector Henry Hradil on a third trip to the plant.

"Henry Hradil, a federal food inspector, testified that he inspected the plant and the operations in the plant on October 16 with state inspector Balfing, made photographs of various parts of the plant, developed the films and made enlargements thereof These were offered and admitted in evidence over objection that by reason of their enlargement they were inaccurate and over-exaggerated. The objection was overruled as going to the weight to be given the photographs as evidence rather than to their admissibility. Hradil described the building and plant stating that the tomato sauce was manufactured on the second floor; that two other rooms on the second floor were used as living quarters; that furniture was stored in a third space which was separated from the manufacturing space by a wire screen; that he found John Viviano there, also the wives of the two owners and two boys three and four years of age and a colored boy helper; that the heads of the workers were uncovered and the aprons and clothing of the male workers unclean; that salt and sugar were in uncovered containers; that a child playing with a toy on the floor put his toy in the salt which witness removed and handed it back to the child and though the mother cautioned the child he put the toy back in the salt. Hradil corroborated and added to Balfing's testimony concerning the presence of many flies, lack of screens and general uncleanliness. He testified further as to dirty walls and window sills on which vessels were set, encrustations on containers used in the manufacturing process, two house flies in one of the strainers, and how the drippings. of sauce from the table were caught in a vessel unstrained and used again or preserved in a vat for later use; that the tomato boxes showed drippings of soupy materials attracting flies; that Viviano told him he paid 75¢ per bushel for the tomatoes, that he bought good tomatoes, that he did not cut out rotten spots but threw out the tomatoes with rot on them and used only the good ones.

"Though defense witnesses testified to more favorable conditions at the plant than was disclosed by the government witnesses, and produce men supported Viviano's testimony that he bought good tomatoes, the defense testimony fell far short of overcoming the testimony of inspectors Balfing and Hradil. From a preponderance of all the evidence I find that on October 11, 13, and 16, 1950, the conditions at the plant were insanitary whereby the products then being manufactured may have become contaminated with filth

such as tomato rot, flies and fly eggs and kindred filth.

"The insanitary conditions at the plant on October 11, 13 and 16 resulted in most part from conditions of a continuing nature such as lack of screens, flies, dirt on walls and floors, et cetera. The inference is not only reasonable but compelling that the conditions were no less insanitary on the dates when the various shipments here in question were prepared and packaged, which I find from the evidence was immediately or within a very few days before

the dates of the respective shipments.

"Did the libeled articles in each seizure consist in whole or in part of a decomposed substance by reason of presence therein of decomposed tomato material; and did F. D. C. No. 30144 consist in whole or in part of a filthy substance by reason of the presence therein of maggots and F. D. C. No. 30178 by reason of the presence therein of fly eggs and maggots? As to each query, based on a heavy preponderance of the evidence, I find in the affirmative. The government scientists who testified on these points gave the impression of being in all respects highly qualified and responsible witnesses who were seeking to develop the facts as they found them to be. The scientific methods they used were not secret or new or questionable when judged by usual standards but widely recognized by scientific societies, and accepted by the government and by industry as dependable methods to be used in examining foods similar to these for decomposed substances. The government witnesses were widely experienced in examining similar foods for the very purposes that they made the examination of the foods here in question. I am persuaded that I should accept their testimony as true and accurate. The testimony of claimant's expert is entitled to careful consideration because of his high reputation as a scientist and obvious effort to bring the court the true results of his tests and examinations. His findings and conclusions wherein they conflict with or tend to refute the findings and conclusions of the scientists who testified for the government are weakened, however, by his lack of experience in the field of decomposed substances in food and particularly in the field of tomatoes and tomato molds. His testimony fails to overcome that of the government scientists whose testimony amply sustained the case of the government in each of the four libels. The testimony of the government's witnesses that decomposed and filthy substances were found in the samples examined by them is strengthened by the proof of insanitary conditions at the plant that would cause one to expect to find decomposed matter and filth

'Section 342 [402] (a) (3) prohibits the interstate shipment of food when it consists in whole or in part of filthy, putrid or decomposed substances irrespective of whether it is fit for food or injurious to health. United States v. 184 barrels of Dried Whole Eggs, 53 F. Supp. 652; United States v. 1851 Cartons, Etc., 146 F. 2d 760; Salamonie Packing Co. v. United States, 165 F.

"The words in clause (3) 'or if it is otherwise unfit for food' do not modify limit, or add any additional requirement of proof to the preceding words. United States v. 935 Cases, Etc., 65 F. Supp. 503; United States v. 184 Barrels of Dried Whole Eggs, supra.

- "The word 'filthy' as used in the Act is intended to be given its ordinary meaning and not confined to any scientific or medical definition. United States v. Swift & Co., 53 F. Supp. 1018. Likewise, 'insanitary conditions' as used in 21 U. S. C. 342 [402] (a) (4) should be construed to have its usual and ordinary meaning. United States v. Lazere. 56 F. Supp. 730.

"From the findings herein and the applicable provisions of the Act and the interpretations placed thereon by the courts I conclude that the articles of food herein libeled were adulterated within the meaning of the Act by reason of the presence therein of decomposed tomato material and in F. D. C. No. 30178 by the presence also therein of filth consisting of fly eggs and maggots and in F. D. C. No. 30144 by the presence also of maggots. I further conclude that the seized articles of food are adulterated within the meaning of the Act by reason of having been prepared and packed under insanitary conditions whereby they may have become and were contaminated with filth.

"Counsel for the government are directed to submit, upon notice, proposed

findings, conclusions and order pursuant hereto."

The claimant filed a motion praying that the court refrain from entering a decree or stay such entry in order that the goods be destroyed, thus obviating the necessity of entering the decree. This motion was argued on December 11, 1951, and was denied. On the same date, the court made its findings of fact and conclusions of law and entered a decree condemning the product and ordering its destruction, with the provision that the marshal should not destroy the goods before December 21, 1951. Prior to the expiration of this date, the claimant filed a motion for a new trial. This motion was argued on January 24, 1952, and was denied. Thereafter, the goods seized at Cincinnati, Ohio, were destroyed, and those seized at Detroit, Mich., were delivered to a Federal penal institution, for use as animal feed.

18761. Adulteration of egg noodles. U. S. v. 37 Cases * * * (F. D. C. No. 32652. Sample No. 35757-L.)

LIBEL FILED: February 6, 1952, Southern District of Ohio.

ALLEGED SHIPMENT: On or about February 9, 1951, by the Chicago Macaroni Co., from Chicago, Ill.

Product: 37 10-pound cases of egg noodles at Columbus, Ohio.

LABEL, IN PART: "Wide Folded Egg Noodles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs.

DISPOSITION: March 20, 1952. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS

18762. Adulteration of rice. U. S. v. 47 Bags * * *. (F. D. C. No. 32634. Sample No. 48237–L.)

LIBEL FILED: January 29, 1952, Northern District of Iowa.

ALLEGED SHIPMENT: On or about September 17, 1951, from Stuttgart, Ark.

PRODUCT: 47 25-pound bags of rice at Waterloo, Iowa, in possession of the Iowa Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 4, 1952. Default decree of condemnation. The court ordered that the product be sold or delivered to an institution, for use as animal feed.

18763. Adulteration of wheat. U. S. v. 105,000 Pounds * * * *. (F. D. C. No. 33383. Sample No. 48368-L.)

LIBEL FILED: June 6, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about May 2, 1952, from Baker, Mont.

PRODUCT: 105,000 pounds of wheat at Duluth, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice. The article was alleged to be adulterated while held for sale after shipment in interstate commerce.

Disposition: June 23, 1952. The Equity Coop. Assn., Baker, Mont., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by washing and scouring, under the supervision of the Federal Security Agency. The reprocessing operations resulted in the removal and destruction of 3,550 pounds of the product as unfit.

DAIRY PRODUCTS

BUTTER

- 18764. Adulteration of butter. U. S. v. Benson Coop. Creamery Co. and Thomas L. Bode. Pleas of guilty. Fine of \$200, plus costs, against company; fine of \$10 against individual. (F. D. C. No. 32773. Sample No. 19105-L.)
- Information Filed: June 20, 1952, Northern District of Iowa, against the Benson Coop. Creamery Co., a corporation, Benson, Iowa, and Thomas L. Bode, plant manager of the corporation.
- ALLEGED SHIPMENT: On or about June 14, 1951, from the State of Iowa into the State of Illinois.
- LABEL, IN PART: "The Great A & P Tea Co. New York Distributors Butter."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the use of filthy cream in the preparation of the article.
- DISPOSITION: June 28, 1952. Pleas of guilty having been entered, the court imposed a fine of \$200, plus costs, against the company, and a fine of \$10 against the individual defendant.
- 18765. Adulteration of butter. U. S. v. 13 Boxes (780 pounds) * * * *. (F. D. C. No. 32033. Sample No. 35234–L.)
- LIBEL FILED: October 3, 1951, Southern District of New York.
- ALLEGED SHIPMENT: On or about September 28, 1951, by the Brewster Creamery, from Brewster, Minn.
- PRODUCT: 13 boxes, each containing approximately 60 pounds, of butter at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter, which should contain not less than 80 percent of milk fat as provided by law.
- DISPOSITION: November 3, 1951. Lewis Ebert & Sons, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be reworked to comply with the law.

CHEESE

- 18766. Adulteration and misbranding of Cheddar cheese. U. S. v. Don Johnson (Dwight Dairy Products Co.). Plea of guilty. Fine of \$1,000, plus costs. (F. D. C. No. 32697. Sample No. 9038–L.)
- Information Filed: July 27, 1951, Southern District of Illinois, against Don Johnson, trading as the Dwight Dairy Products Co., Dwight, Ill.
- ALLEGED VIOLATION: On or about August 19, 1947, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce, at

Dixon, Ill., a guaranty to the effect that no cheese delivered by the defendant would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about July 12, 1951, the defendant caused to be delivered to the holder of the guaranty, at Dixon, Ill., a quantity of cheese which was adulterated and misbranded.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments and by reason of the use of filth-contaminated milk in the preparation of the article; and, Section 402 (a) (4), the article had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), the label statement "Made From Pasteurized Milk" was false and misleading since the article was not made from pasteurized milk.

DISPOSITION: April 29, 1952. A plea of guilty having been entered, the court imposed a fine of \$1,000, plus costs.

18767. Adulteration of Cheddar cheese. U. S. v. 1,325 Boxes * * * (F. D. C. No. 29215. Sample No. 56558–K.)

LIBEL FILED: May 6, 1950, Northern District of New York.

Alleged Shipment: On or about August 3, 1948, from Milan, Wis.

PRODUCT: 1,325 boxes, each containing 24 pounds, of Cheddar cheese at Syracuse, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, and of a decomposed substance by reason of the presence of decomposed cheese. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: October 4, 1950. Breakstone Bros., Inc., Syracuse, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. Approximately 30,000 pounds of the product were found unfit and were destroyed.

FEEDS AND GRAINS

18768. Adulteration and misbranding of Pail-O-Melk. U. S. v. Stock-Gro, Inc. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 30007. Sample No. 72744-K.)

Information Filed: December 5, 1950, Eastern District of Wisconsin, against Stock-Gro, Inc., Mayville, Wis.

ALLEGED SHIPMENT: On or about April 26, 1950, from the State of Wisconsin into the State of Ohio.

Label, In Part: "Simmons Pail-O-Melk Analysis Per Pound: (Minimum) Nitrogen Free Extract 40% Protein 25% Fat 2% Fibre (Maximum) 2% Contains: Vitamin A, Vitamin D, Riboflavin, Biotin, Pantothenic Acid, Thiamin and Nicotinic Acid. Ingredients: Non-Fat Dried Milk Solids, Alfalfa Leaf Meal, Ground Rolled Oats, Soy Bean Meat, Wheat Germ, Vitamin A

Feeding Oil, Mixed Minerals. Net 25 Pounds Made By Stock-Gro Inc. Chicago Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, protein and fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 25 percent of protein and less than 2 percent of fat, and consisting of nonfat dried milk solids, yellow corn meal, ground oats, wheat middlings, and oil, had been substituted for the article.

Misbranding, Section 403 (a), the statements in the labeling of the article which represented and suggested that the article contained not less than 25 percent of protein and not less than 2 percent of fat, and that it contained alfalfa leaf meal, ground rolled oats, soybean meal, wheat germ, and mixed minerals, were false and misleading. The article contained less than 25 percent of protein and less than 2 percent of fat, and it did not contain alfalfa leaf meal, ground rolled oats, soybean meal, wheat germ, and mixed minerals. Further misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient in that the article contained the ingredients, corn meal, ground oats, and wheat middlings; and the label of the article failed to declare the presence of these ingredients in the article.

DISPOSITION: July 21, 1952. A plea of nolo contendere having been entered, the court imposed a fine of \$500.

18769. Adulteration and misbranding of pulverized oyster shell. U. S. v. 42 Bags * * * (and 2 other seizure actions) (F. D. C. Nos. 32849 to 32851, incl. Sample Nos. 33318-L to 33320-L, incl.)

LIBELS FILED: March 5, 1952, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about January 18 and 30, 1950, by the Mayo Shell Corp., from Houston, Tex.

PRODUCT: 330 50-pound bags of pulverized oyster shell at Seymour and Greenville, Wis. Analysis showed that the product contained from 91.4 percent to 93.0 percent calcium carbonate.

LABEL, IN PART: "Mayo's Cal-Bon-Ate Guaranteed 97% Calcium Carbonate."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, calcium carbonate, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "97% Calcium Carbonate" was false and misleading as applied to the article, which contained less than 97 percent calcium carbonate.

Disposition: April 18, 1952. Default decree of condemnation and destruction.

18770. Adulteration and misbranding of alfalfa meal. U. S. v. 400 Bags * * *. (F. D. C. No. 32084. Sample No. 378-L.)

LIBEL FILED: November 29, 1951, District of Kansas.

ALLEGED SHIPMENT: On or about August 2, 1951, by Southwestern Alfalfa Mill, Inc., from Lexington, Nebr.

PRODUCT: 400 bags of alfalfa meal at Lancaster, Kans.

LABEL, IN PART: "50 Lbs. Net. * * * H. E. Clark Company * * * 17% dehydrated alfalfa meal Guaranteed analysis crude protein, not less than 17.0% * * * crude fiber, not more than 27.0%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), alfalfa meal containing less than 17 percent crude protein and more than 27 percent crude fiber had

been substituted in whole or in part for alfalfa meal containing not less than 17 percent crude protein and not more than 27 percent crude fiber, which the product was represented to be.

Misbranding, Section 403 (a), the label statement "Guaranteed analysis crude protein, not less than 17.0% * * * crude fiber, not more than 27.0%" was false and misleading.

DISPOSITION: March 17, 1952. Default decree of condemnation. The court ordered that the product be delivered to a State institution.

FISH AND SHELLFISH

18771. Adulteration of frozen pike fillets. U.S. v. 495 Pounds * * * *. (F.D.C. No. 32690. Sample No. 19570-L.)

LIBEL FILED: February 21, 1952, District of North Dakota.

ALLEGED SHIPMENT: On or about December 18, 1951, by H. Peters, from Crookston, Minn.

Product: 495 pounds of frozen pike fillets at West Fargo, N. Dak.

LABEL, IN PART: "Pike Fillets M. F. M. Product of Canada."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance by reason of the presence of putrid fish.

DISPOSITION: May 22, 1952. Default decree of condemnation and destruction.

18772. Adulteration and misbranding of oysters. U. S. v. 600 Cans, etc. (F. D. C. No. 32182. Sample Nos. 2947–L, 2948–L.)

LIBEL FILED: November 23, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 17, 1951, by Guss Forbush & Son, from Crisfield, Md.

Product: 700 1-pint cans of oysters at Kane, Pa.

LABEL, IN PART: "Oysters Standards [or "Selects"] Black Pearl."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to meet the definition. and standard of identity for oysters since it was not thoroughly drained and was in contact with water for more than 30 minutes after leaving the shucker.

Disposition: December 19, 1951. Default decree of condemnation destruction.

18773. Adulteration and misbranding of oysters. U. S. v. 464 Cans * (F. D. C. No. 32179. Sample No. 4003-L.)

LIBEL FILED: November 23, 1951, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 17, 1951, by V. L. Evans & Co., from Crisfield, Md.

Product: 464 1-pint cans of oysters at Scranton, Pa.

LABEL, IN PART: "Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to meet the definition and standard of identity for oysters since it was not thoroughly drained and was in contact with water for more than 30 minutes after leaving the shucker.

DISPOSITION: January 16, 1952. Default decree of condemnation and destruction.

18774. Misbranding of oysters. U. S. v. 304 Cans, etc. (F. D. C. No. 32313. Sample Nos. 3889-L, 3890-L.)

LIBEL FILED: December 20, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 17, 1951, by C. A. Lockerman, from Crisfield, Md.

Product: 768 cans of oysters at Altoona, Pa.

LABEL, IN PART: "Oysters Standards [or "Selects"] 1 Pint."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled 1 pint.

DISPOSITION: January 17, 1952. Default decree of condemnation and destruction.

18775. Misbranding of oysters. U. S. v. 584 Cans * * *. (F. D. C. No. 32312. Sample No. 3887-L.)

LIBEL FILED: December 20, 1951, Southern District of Ohio.

ALLEGED SHIPMENT: On or about December 17, 1951, by Carol Dryden & Co., Inc., from Crisfield, Md.

PRODUCT: 584 cans of oysters at Columbus, Ohio.

LABEL, IN PART: "Oysters Standards One Pint Pride of the Chesapeake."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled 1 pint.

DISPOSITION: December 21, 1951. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

18776. Misbranding of oysters. U. S. v. 120 Cans * * * *. (F. D. C. No. 31928. Sample No. 4374–L.)

LIBEL FILED: October 25, 1951, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about October 16, 1951, by John T. Handy Co., Inc., from Crisfield; Md.

PRODUCT: 120 cans of oysters at Lexington, Ky.

LABEL, IN PART: "Oysters 1 Pint Handy's MD 224."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than 1 pint.)

DISPOSITION: January 8, 1952. Default decree of condemnation and destruction.

18777. Adulteration of frozen shrimp. U. S. v. 15 Cases, etc. (F. D. C. Nos. 32625, 32626. Sample Nos. 17770–L, 18260–L.)

LIBEL FILED: January 23, 1952, Southern District of California.

ALLEGED SHIPMENT: On or about October 18 and December 12, 1951, from Hilo and Honolulu, Hawaii. These were return shipments.

PRODUCT: 28 cases, each containing 12 5-pound blocks, of frozen shrimp at Wilmington, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: March 7, 1952. Default decree of condemnation. The court ordered that the product be delivered to a State agency, for use as fish food.

FRUITS AND VEGETABLES

CANNED FRUIT

18778. Adulteration of canned mashed bananas. U. S. v. 241 Cases * * *. (F. D. C. No. 32461. Sample No. 38005-L.)

LIBEL FILED: January 31, 1952, Eastern District of New York.

ALLEGED SHIPMENT: On or about July 19, 1948, from Guantanamo, Cuba.

Product: 241 cases, each containing 6 6-pound, 8-ounce cans, of mashed bananas at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 7, 1952. Default decree of condemnation and destruction.

18779. Misbranding of canned peaches. U. S. v. 697 Cases * * *. (F. D. C. No. 32976. Sample No. 17003–L.)

LIBEL FILED: March 24, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 19, 1952, by Case-Swayne Co., Inc., from Santa Ana, Calif.

Product: 697 cases, each containing 24 1-pound, 14-ounce cans, of peaches at Somerville, Mass.

LABEL, IN PART: "Yor Garden Ripe Yellow Freestone Sliced Peaches * * *
In Extra Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the standard, the name of the optional packing medium present since the label bore the statement "In Extra Heavy Syrup," whereas the product was packed in heavy sirup.

DISPOSITION: June 16, 1952. The shipper, claimant, having consented to the entry of a decree, judgement of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Federal Security Agency.

18780. Misbranding of canned peaches. U. S. v. 492 Cases * * *. (F. D. C. No. 32989. Sample No. 41815–L.)

LIBEL FILED: April 18, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 26, 1952, by the Manteca Canning Co., from Stockton, Calif.

Product: 492 cases, each containing 24 cans, of peaches at Philadelphia, Pa.

LABEL, IN PART: "Kellogg's Supreme Quality Sliced Yellow Cling Peaches In Extra Heavy Syrup Contents 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the optional packing medium present since the label bore the statement "In Extra Heavy Syrup," whereas the product was packed in heavy sirup.

DISPOSITION: May 15, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

DRIED FRUIT

18781. Adulteration of dates. U. S. v. 10 Boxes * * * *. (F. D. C. No. 32588. Sample No. 48231–L.)

LIBEL FILED: January 15, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about July 14, 1951, from New York, N. Y.

PRODUCT: 10 boxes, each containing approximately 70 pounds, of dates at St. Paul, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 21, 1952. A default decree was entered, and the court ordered that the product be denatured for use as animal feed or be destroyed.

18782. Adulteration of figs. U. S. v. 39 Cases * * * *. (F. D. C. No. 32664. Sample No. 30470–L.)

LIBEL FILED: February 13, 1952, District of Oregon.

ALLEGED SHIPMENT: On or about January 29, 1952, by the Bonner Packing Co., from Fresno, Calif.

Product: 39 30-pound cases of figs at Portland, Oreg.

LABEL, IN PART: "Bonner Fancy Calimyrna Figs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy figs.

DISPOSITION: April 7, 1952. Default decree of condemnation and destruction.

FROZEN FRUIT

18783. Adulteration of frozen strawberries. U. S. v. 1,000 Cans * * *.

Order for dismissal of libel reversed on appeal. Decree of condemnation and destruction. (F. D. C. No. 29225. Sample No. 54633-K.)

LIBEL FILED: May 17, 1950, Southern District of Mississippi; amendment to libel filed October 20, 1950.

ALLEGED SHIPMENT: Between April 24 and May 2, 1950, by Allbrook Freezing & Cold Storage, Inc., from Ponchatoula, La.

PRODUCT: 1,000 30-pound cans of frozen strawberries at Gulfport, Miss. When the product was shipped in interstate commerce, it consisted in part of flats of strawberries. After its receipt at Gulfport, Miss., the product was packed into cans, each can containing approximately 30 pounds of strawberries and added sugar.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rotten berries.

DISPOSITION: Allbrook Freezing & Cold Storage, Inc., claimant, having denied certain allegations of the libel, and both the claimant and the Government having filed interrogatories which were answered, the case came on for hearing before the court on the claimant's motion for dismissal of the libel.

On December 20, 1950, the court handed down its findings of fact and conclusions of law, and in accordance therewith an order was entered on the same day, sustaining the claimant's motion for dismissal and providing for the dismissal of the libel and the release of the product. On December 30, 1950, upon motion of the Government, an order was entered staying the execution of the order of December 20, pending appeal by the Government. Thereafter, the case was appealed to the United States Court of Appeals for the Fifth Circuit, and on March 4, 1952, after consideration of the briefs and arguments of counsel, the following opinion was handed down:

HUTCHESON, Chief Judge: "Alleging that they consisted, in whole or in part, of a decomposed and filthy substance, moldy and rotten berries which had been shipped in interstate commerce from Ponchatoula, Louisiana, to Gulfport, Mississippi, and there packaged with sugar added, the amended libel sought the seizure and condemnation, under the Federal Food and Drug Act, of the 1000 cans, more or less, in which they were packed, as an adulterated article of food.

"Intervening as claimant, Allbrook Freezing & Cold Storage, Inc., denied that the product seized was adulterated. Denying also that the seized cans were, or had been shipped, in interstate commerce, and insisting that, since they had not been, they were not subject to seizure and condemnation under the act, and the court was without jurisdiction of the libel, they moved that the libel be dismissed and the seized property released.

"Thereafter, interrogatories having been answered, the motion to dismiss was heard and sustained for the reasons briefly stated by the judge in his

¹ 21 U. S. C. 334 (a) et seq.

letter to counsel, and elaborated in his findings of fact and conclusions of

law,4 and the libel was dismissed.

"Appealing from that dismissal order, libelant is here seeking its reversal. Attacking as untenable the reasons given by the district judge for dismissing the libel: (1) that, since Sec. 341 [401] of the act provides that no definition or quality of fresh fruits shall be established, shipments of fresh strawberries, even if adulterated, are not subject to condemnation and seizure; and (2) that, since the frozen and canned strawberries have not been introduced into commerce, their seizure is premature; appellant insists that the order dismissing the libel was erroneous and must be reversed.

"We agree. In Bruce's Juices v. United States, . . . F (2) . . ., (this day decided), we rejected a contention as to Sec. 341 [401], quite similar to that advanced below in support of the decision to dismiss. For the reasons, and

upon the authorities there cited, we reject the contention made here.

"Nor do we find any better taken the second ground for dismissing the libel, that the strawberries after being processed ceased to be the strawberries which moved in interstate commerce and became a new product which cannot be seized unless and until it moves in interstate commerce in its changed form. If this were a sound view, and adulterated constituents of processed products could be seized only when in their unprocessed form, the enforcement of the act would be easily defeated. That it is not sound, a reading of the act, which contains no such limitation, makes clear. It is made clear, too, by the many cases, some of which are cited in the margin, which have dealt with the question either in its precise or a kindred form.

3 Findings of Fact:

"1. Between April 24 and May 2, 1950, raw strawberries were purchased by the claimant in Ponchatoula, La., and were packed in flats and shipped from Ponchatoula, La., to Gulfport, Miss., to the plant of the claimant, solely for the purpose of being processed, canned and frozen.

"2. The strawberries were sorted, washed, and mixed with sugar, processed for freezing and frozen, at Gulfport, Miss.

"3. Seizure was made of the strawberries after they had been sorted, washed and processed at Gulfport, Miss., and before they had been placed in Interstate Commerce.

"4. The seizure was made of strawberries which were not held for sale in interstate commerce and had not been shipped or introduced into interstate commerce, nor intended to be introduced in interstate commerce, until samples taken by claimant's chemist, examined, tested and certified to as complying with the Pure Food, Drug & Cosmetic Act.

"5. The processing of said strawberries was not complete at the time of the seizure and were not at that time intended to be introduced in interstate commerce or to be held for sale in interstate commerce.

"6. No tolerance or standard of quality had been promulgated by the Administrator for fresh strawberries or for frozen strawberries."

Conclusions of Law:

"1. Title 21. Sec. 334. U. S. Code Ann. provides for jurisdiction and seizure. This Section provides that an article shall be liable to be proceeded against in Interstate Commerce or at any time thereafter if it is adulterated when introduced into or while in Interstate Commerce, or while held for sale after shipment in Interstate Commerce.

"2. Title 21, Sec. 341, United States Code Annotated provides that no definition of standard or identify or quality shall be established for fresh fruits or vegetables.

"3. The seizure herein was premature in that at said time, the Pure Food, Drug & Cosmetic Act had not been violated nor was it the intention of claimants to violate it.

violate it.

"4. Since the frozen strawberries, the subject of the seizure, had not been introduced into Interstate Commerce, were not being held in Interstate Commerce and were not being held for sale after shipment in Interstate Commerce, this court is without jurisdiction and the cause should be dismissed for lack of jurisdiction."

⁵ Hipolite Egg Co. v. U. S., 220 U. S. 45; In Re United States, 140 F (2) 19; Lee v. U. S., 187 U. S. 1005; Union Dairy Co. v. U. S., 250 Fed. 231; U. S. v. 40 Bbls. * * * Coca Cola, 215 Fed. 535; U. S. v. Sullivan, 332 U. S. 689; U. S. v. 36 Drums * * * Pop'n Oil, 164 F (2) 250; U. S. v. 24 Cans * * * Labeled Butter, 148 F (2) 365, cert, denied 325 U. S. 752; McAllister v. U. S., 5th Cir., (decided Feb. 1952).

² "I have considered carefully the record and briefs in Cause No. 1062, U. S. A. v. 1000 Cans, Frozen Strawberries and rest in the conclusion that the Court does not have jurisdiction. Since Title 21, Sec. 341, U. S. C. provides that no definition or quality of fresh fruits or vegetables shall be established, I am of the opinion that even though the strawberries might have been adulterated when introduced into interstate commerce, yet no law was violated. The strawberries came to rest at a time when no law had been violated and not having been shipped in interstate commerce thereafter, I am of the opinion that no law was violated * * *."

"The order dismissing for want of jurisdiction was erroneously entered. It is REVERSED and the cause is REMANDED with directions to hear the libel on its merits."

On August 7, 1952, Allbrook Freezing & Cold Storage, Inc., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

VEGETABLES

18784. Supplement to notice of judgment on foods, No. 18174. Misbranding of canned peas. U. S. v. 72 Cases * * * (F. D. C. No. 32357. Sample No. 22411–L.)

As reported in the notice of judgment on foods, No. 18174, a default decree of condemnation and destruction was entered against the product on the ground that it was misbranded under Section 403 (h) (1) because it fell below the standard of quality for canned peas.

Subsequent to the entry of such decree, it was ascertained that the product, although misbranded, was fit for human consumption; and, accordingly, an amended decree was entered on February 13, 1952, ordering that the product be delivered to charitable institutions for consumption by the inmates.

18785. Adulteration of canned black-eyed peas. U. S. v. 70 Cases * * * *. (F. D. C. No. 32653. Sample Nos. 13014-L, 14163-L.)

LIBEL FILED: February 12, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about January 10, 1952, by the Tex-Plains Canning Co., from Lubbock, Tex.

PRODUCT: 70 cases, each containing 24 1-pound, 4-ounce cans, of black-eyed peas at Denver, Colo.

Label, in Part: "Del Haven Fresh Shelled Blackeyed Peas."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for black-eyed peas. Examination disclosed that the article contained excess brine.

DISPOSITION: April 3, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18786. Adulteration of potatoes. U. S. v. 821 Sacks * * * (F. D. C. No. 32288. Sample No. 27525–L.)

LIBEL FILED: December 27, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about November 14 and 19, 1951, by August Brunkowski, from Smith, Nev.

Product: 821 100-pound sacks of potatoes at San Jose, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: January 8, 1952. Blase Bros. & Co., San Jose, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and denaturing of the unfit portion, under the supervision of the Food and Drug Administration. Segregation operations resulted in the salvaging of 27,220 pounds of potatoes.

TOMATOES AND TOMATO PRODUCTS

18787. Adulteration of canned tomatoes. U. S. v. 136 Cases * * * *. (F. D. C. No. 32136. Sample No. 20888–L.)

LIBEL FILED: November 30, 1951, Western District of Louisiana.

ALLEGED SHIPMENT: On or about August 25, 1951, by the Rush Canning Co., from Exeter, Mo.

PRODUCT: 136 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Natchitoches, La.

LABEL, IN PART: "Satisfaction Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4) it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: February 29, 1952. Default decree of condemnation and destruction.

18788. Misbranding of canned tomatoes. U. S. v. 698 Cases * * *. (F. D. C. No. 31925. Sample No. 4061–L.)

LIBEL FILED: November 21, 1951, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about August 25, 1951, by the Lake Packing Co., from Lake, Va.

PRODUCT: 698 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Greenville, N. C.

LABEL, IN PART: "Red-Glo Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container was less than 50 percent of the weight of water required to fill the container, and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: February 14, 1952. The Lake Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

18789. Misbranding of canned tomatoes. U. S. v. 648 Cases * * * (F. D. C. No. 31677. Sample No. 3779–L.)

LIBEL FILED: On or about September 14, 1951, District of Maryland.

ALLEGED SHIPMENT: On or about July 30, 1951, by A. W. Sisk & Son, from Preston, Md., to Braddock, Pa., and from there returned to the manufacturer, the Salem Packing Co., at Salem, Md.

PRODUCT: 648 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Salem, Md.

LABEL, IN PART: (Can) "Salem Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label designation "Contents 1 Lb. 3 Oz." was inaccurate (the article was short of the declared weight).

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below such standard; and, Section 403 (h) (2), the article fell below the standard of fill of container for canned tomatoes since the container of the article was filled to less than 90 percent of the total capacity of the container, the minimum permitted by such standard, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: October 19, 1951. The Salem Packing Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

18790. Adulteration of tomato juice. U. S. v. 43 Cases * * *. (F. D. C. No. 30959. Sample No. 30177-L.)

LIBEL FILED: On or about July 19, 1951, District of Montana.

ALLEGED SHIPMENT: On or about March 29, 1951, by the Naas Corp. of Indiana, from Portland, Ind.

PRODUCT: 43 cases, each containing 48 5%-ounce cans, of tomato juice at Billings, Mont.

Label, in Part: "Pep-To Brand Pure Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 30, 1952. Default decree of condemnation. The court ordered that the product be denatured and delivered to a State institution, for use as animal feed.

18791. Adulteration of tomato puree. U. S. v. 19 Cases * * * (F. D. C. No. 32332. Sample No. 26097-L.)

LIBEL FILED: January 4, 1952, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 2, 1951, by R. S. Watson & Son, from Greenwich, N. J.

PRODUCT: 19 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at Wilkes-Barre, Pa.

LABEL, IN PART: (Can) "Greenwich Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 4, 1952. Default decree of condemnation and destruction.

NUTS

18792. Adulteration of shelled almonds. U. S. v. 60 Pounds * * * *. (F. D. C. No. 32263. Sample No. 16557–L.)

LIBEL FILED: December 4, 1951, District of Kansas.

Alleged Shipment: On or about September 19, 1951, from San Francisco, Calif.

Product: 60 pounds of shelled almonds in 3 cans at Kansas City, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 20, 1952. Default decree of condemnation and destruction.

18793. Adulteration of cashew nuts. U. S. v. 150 Cases, etc. (and 2 other seizure actions). (F. D. C. Nos. 31517, 31819, 31824. Sample Nos. 27062-L, 27064-L, 27070-L, 27374-L to 27376-L, incl., 27379-L.)

Libels Filed: September 14, 19, and 26, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about August 4 and 18, 1951, by the Aristocrat Nut Co., from New York, N. Y.

PRODUCT: 486 cases, each containing 2 25-pound cans, of cashew nuts at San Francisco, Calif., and 50 cases, each containing 2 25-pound cans, of the product at Oakland, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: October 2 and 18, 1951. The Aristocrat Nut Co., claimant, having consented to the entry of a decree, judgments of condemnation were entered and the court ordered that the product be released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration. The cases were opened at San Francisco, and the nuts were fumigated and examined. Thirty-four cans of nuts were found in such poor condition that they were destroyed.

On or about November 29, 1951, pursuant to stipulation entered into between the Government and the claimant, the court entered orders modifying the decrees to permit shipment of the nuts to New York, N. Y., for salvage, and extending the time for performance. The product was salvaged by brushing and blowing, resulting in the elimination and destruction of 350 pounds of reject material.

18794. Adulteration of unshelled peanuts. U. S. v. 21 Bags * * * *. (F. D. C. No. 32838. Sample No. 48598–L.)

LIBEL FILED: March 3, 1952, District of North Dakota.

ALLEGED SHIPMENT: On or about December 27, 1951, from Moorhead, Minn.

PRODUCT: 21 100-pound bags of unshelled peanuts at Fargo, N. Dak., in possession of the Nash-Finch Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 22, 1952. Default decree of condemnation and destruction.

OLEOMARGARINE

18795. Adulteration and misbranding of oleomargarine. U. S. v. 148 Cases

* * *. (F. D. C. No. 32973. Sample No. 6424–L.)

LIBEL FILED: March 21, 1952, District of Connecticut.

ALLEGED SHIPMENT: On or about January 30, 1952, by the Cudahy Packing Co., from Omaha, Nebr.

PRODUCT: 148 cases, each containing 24 1-pound packages, of oleomargine at Waterbury, Conn.

LABEL, IN PART: "Delrich E-Z Color Pak Vegetable Oleomargarine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for eleomargarine since it contained less than 80 percent fat.

Disposition: July 9, 1952. The sole intervener having withdrawn its claim, judgment of condemnation was entered and the court ordered that the product be delivered to charitable institutions.

18796. Adulteration and misbranding of oleomargarine. U. S. v. 20 Cartons (1,280 pounds) * * * *. (F. D. C. No. 31966. Sample No. 23941–L.)

Libel Filed: October 30, 1951, District of New Jersey.

ALLEGED SHIPMENT: On or about October 22, 1951, by Zimmer & Dunkak, from New York, N. Y.

Product: 20 cartons, each containing 64 pounds, of colored oleomargarine at Perth Amboy, N. J.

LABEL, IN PART: "Butter Bulk Tiger."

Nature of Charge: Adulteration, Section 402 (b) (2), colored oleomargarine had been substituted in whole or in part for butter.

Misbranding, Section 403 (a), the label designation "Butter" was false and misleading since the product was colored oleomargarine.

DISPOSITION: March 24, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable organizations after destruction of the labels.

POULTRY

18797. Adulteration of poultry. U. S. v. 5 Crates * * *. (F. D. C. No. 31338. Sample No. 24349–L.)

LIBEL FILED: July 9, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about June 30, 1951, by the Farmhouse Poultry Co., from Robbins, N. C.

PRODUCT: 5 crates each containing approximately 76 pounds of poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous or deleterious substance which is unsafe within the meaning of Section 406 of the Act. (Examination showed the presence of added diethylstilbestrol in edible portions of the birds.)

Disposition: August 22, 1951. The Farmhouse Poultry Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the neck be removed from each of the birds and that each bird be eviscerated. The necks, neck skins, and viscera were delivered to a rendering plant.

- 18798. Adulteration of dressed poultry. U. S. v. 150 Pounds * * * *. (F. D. C. No. 31962. Sample No. 25797–L.)
- LIBEL FILED: On or about November 2, 1951, District of New Jersey.
- ALLEGED SHIPMENT: On or about October 18, 1951, by the Samor Poultry Co., from Wilmington, Del.
- Product: 150 pounds of dressed poultry at Camden, N. J.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material.
- DISPOSITION: January 21, 1952. A default decree of condemnation and destruction was entered, with the provision that the Food and Drug Administration be permitted to retain a sample of the product.
- 18799. Adulteration of dressed turkeys. U. S. v. 3 Cases * * *. (F. D. C. No. 32347. Sample No. 29889–L.)
- LIBEL FILED: January 4, 1952, Western District of Washington.
- ALLEGED SHIPMENT: On or about December 15, 1951, by Perry Bros., from Stanfield, Oreg.
- PRODUCT: 3 cases containing a total of 15 dressed turkeys at Seattle, Wash.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food because of the presence of breast blisters.
- DISPOSITION: May 7, 1952. Default decree of condemnation and destruction.
- 18800. Adulteration of chicken gizzards. U. S. v. 30 Packages, etc. (F. D. C. No. 32213. Sample Nos. 875–L, 876–L, 879–L, 880–L, 883–L.)
- LIBEL FILED: December 3, 1951, Southern District of Florida.
- ALLEGED SHIPMENT: On or about October 1 and 25 and November 10, 1951, by Georgia Broiler Processing Plant, Inc., from Gainesville, Ga.
- PRODUCT: Chicken gizzards. 92 5-pound packages and 132 1-pound packages at Miami, Fla.
- LABEL, IN PART: "Georgia Fryer" or "Dixieland's Pride."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirty chicken gizzards, and of a decomposed substance by reason of the presence of decomposed chicken gizzards.
- DISPOSITION: December 26, 1951. Default decree of forfeiture and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 18751 TO 18800 PRODUCTS

N. J. No. 1	N. J. No.
Alfalfa meal 18770	Cashew nuts 18793
Almonds, shelled 18792	Cereals and cereal products 18758-
Bananas, mashed, canned 18778	18763
	Cheese 18766, 18767
Butter 18764, 18765	Chickens. See Poultry.
Candy 18751, 18752	Chocolate-flavored sirup 18753

^{1 (18760, 18783)} Seizure contested. Contains opinion of the court.

	AT T AT.	1	NI T No
·Cocoa beans	N. J. No.	Pail-O-Melk	N. J. No. 18768
Dairy products		Peaches, canned	
Dates		Peanuts, unshelled	
Feeds and grains		Peas, canned	
Figs		black-eyed, canned	
Fish and shellfish		Pike fillets, frozen	
Flour	18758, 18759	Potatoes	18786
Fruits and vegetables	¹ 18778–18791	Poultry	18797-18800
fruit, canned	18778-18780	Rice	18762
,dried		Shellfish. See Fish and sh	ellfish.
frozen		Shrimp, frozen	
tomatoes and tomato	_	Sirup, chocolate-flavored	18753
ucts		sorghum	·
vegetables		Sorghum sirup	
Gizzards, chicken		Spaghetti. See Macaron	i and
Grains. See Feeds and gr		noodle products.	1 1 0 - 0 0
Macaroni and noodle prod		Strawberries, frozen	
N N N N N N N N N N N N N N N N N N N	18761	Tomato(es), canned	
Noodles. See Macaroni	and	juice	
noodle products.	10700 10704	puree	18791
NutsOleomargarine			d voca
Oyster(s)			u vege-
		Wheat	19769
shell, parverizea======		'' Hout	10100
SHIPPERS,	MANUFACTUR	ERS, AND DISTRIBUTORS	
SHIPPERS,	MANUFACTUR N. J. No.		N. J. No.
SHIPPERS, A. & P. Tea Co.:			N. J. No.
	N. J. No.		
A. & P. Tea Co.: butterAllbrook Freezing & Cold St	N. J. No.	Cataldo, Arcangelo: candy Chicago Macaroni Co.:	18751
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.:	N. J. No. 18764 torage,	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles	18751
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries	N. J. No. 18764 torage,	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.:	18 7 51
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.:	N. J. No. 18764 torage, 18783	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal	18 7 51
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts	N. J. No. 18764 torage, 18783	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.:	18 7 51 18 7 61 18 7 70
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co	N. J. No. 18764 torage, 18783 18793	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine	18 7 51 18 7 61 18 7 70
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter	N. J. No. 18764 torage, 18783 18793	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.:	18751 18761 18770 18795
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.:	N. J. No. 18764 torage, 18783 18793 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters	18751 18761 18770 18775
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter	N. J. No. 18764 torage, 18783 18793 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co	18751 18761 18770 18775
A. & P. Tea Co.: butter Allbrook Freezing & Cold St Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.:	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don.	18751 18761 18770 18775
A. & P. Tea Co.: butter Allbrook Freezing & Cold State: Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.:	18751 18761 18770 18775 18775 See
A. & P. Tea Co.: butter Allbrook Freezing & Cold Stanc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery:	N. J. No. 18764 torage, 18783 18793 18764 18764 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters	18751 18761 18770 18775 18775 See
A. & P. Tea Co.: butter Allbrook Freezing & Cold State Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter	N. J. No. 18764 torage, 18783 18793 18764 18764 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.:	18751 18761 18770 18775 18775 18775 18775
A. & P. Tea Co.: butter Allbrook Freezing & Cold Stanc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter Brunkowski, August:	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters Farmhouse Poultry Co.:	18751 18761 18770 18775 18775 18775 18775
A. & P. Tea Co.: butter Allbrook Freezing & Cold State Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters Farmhouse Poultry Co.: poultry	18751 18761 18770 18795 18795 18775 18775 18775 18777
A. & P. Tea Co.: butter Allbrook Freezing & Cold Stanc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter Brunkowski, August: potatoes	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters Farmhouse Poultry Co.: poultry Forbush, Guss, & Son: oysters	18751 18761 18770 18795 18795 18775 18775 18777 18777
A. & P. Tea Co.: butter Allbrook Freezing & Cold Stanc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter Brunkowski, August: potatoes Carmelita Candy Co.: candy Case-Swayne Co., Inc.:	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters Farmhouse Poultry Co.: poultry Forbush, Guss, & Son: oysters Georgia Broiler Processing Inc.:	18751 18761 18770 18770 18795 18775 18775 18775 18773 18777 18772 Plant,
A. & P. Tea Co.: butter Allbrook Freezing & Cold Stanc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter Brunkowski, August: potatoes Carmelita Candy Co.: candy Case-Swayne Co., Inc.:	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy Chicago Macaroni Co.: egg noodles Clark, H. E., Co.: alfalfa meal Cudahy Packing Co.: oleomargarine Dryden, Carol, & Co., Inc.: oysters Dwight Dairy Products Co Johnson, Don. Evans, V. L., & Co.: oysters Farmhouse Poultry Co.: poultry Forbush, Guss, & Son: oysters Georgia Broiler Processing	18751 18761 18770 18770 18795 18775 18775 18775 18773 18777 18772 Plant,
A. & P. Tea Co.: butter Allbrook Freezing & Cold State Inc.: frozen strawberries Aristocrat Nut Co.: cashew nuts Benson Coop. Creamery Co butter Bode, T. L.: butter Bonner Packing Co.: figs Brewster Creamery: butter Brunkowski, August: potatoes Carmelita Candy Co.: candy Case-Swayne Co., Inc.:	N. J. No. 18764 torage, 18793 .: 18764	Cataldo, Arcangelo: candy	18751 18761 18770 18770 18795 18775 18775 18775 18773 18777 18772 Plant,

	N. J. No.	N. J. No.
Handy, John T., Co., Inc.:		Peters, H.:
oysters	_ 18776	frozen pike fillets 18771
Iowa Warehouse Co.:		Rush Canning Co.:
rice	_ 18762	canned tomatoes 18787
Johnson, Don:		Rutledge, G. L.:
Cheddar cheese	18766	sorghum sirup 18756
Lake Packing Co.:		Salem Packing Co.:
canned tomatoes	18788	canned tomatoes 18789
Liberty Chocolate Co. See Ca	a-	Samor Poultry Co.:
taldo, Arcangelo.		dressed poultry18798
Lockerman, C. A.:		Sisk, A, W., & Son:
oysters	18774	canned tomatoes 18789
Manteca Canning Co.:		Southwestern Alfalfa Mill, Inc.:
canned peaches	18780	alfalfa meal 18770
Mason City Warehouse Corp.:		Stock-Gro, Inc.:
flour	18758	Pail-O-Melk 18768
Mayo Shell Corp.:		Tex-Plains Canning Co.:
pulverized oyster shell	18769	canned black-eyed peas 18785
Merchants Supply, Inc.:		Viviano Foods, Inc.:
flour	18759	canned spaghetti with cheese1 18760
Naas Corp. of Indiana:		Watson, R. S., & Son:
tomato juice	18790	tomato puree 18791
Nash-Finch Co.:		Woods, John:
unshelled peanuts	18794	sorghum sirup 18757
Perry Bros.:		Zimmer & Dunkak :
dressed turkeys	18799	oleomargarine 18796

^{1 (18760; 18783)} Seizure contested. Contains opinion of the court.



The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year

32NS-

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

18801-18850

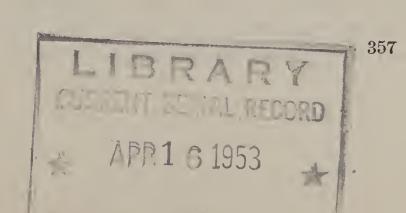
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

Charles W. Crawford, Commissioner of Food and Drugs. Washington D. C., February 25, 1953.

CONTENTS

		Page		Page
Cerea	als and cereal products	358	Fruits and vegetables	368
Ba	kery products	358	Canned fruit	368
Co	rn meal	358	Dried fruit	369
Flo	our	359	Vegetables	369
Mi	scellaneous cereals	360	Tomatoes and tomato products	370
Choc	olate, sugar, and related prod-		Meat and poultry	372
ι	acts	361	Oils and fats	373
Ca	ndy	361	Oleomargarine	374
Ch	ocolate	362	Spices, flavors, and seasoning ma-	
Sir	up and sugar	362	terials	374
Mi	scellaneous saccharine prod-		Vitamin, mineral, and other prod-	
ι	act	363	ucts of special dietary signifi-	
Dairy	y products	364	cance	376
Bu	tter	364	Miscellaneous foods	377
Ch	eese and cheese product	365	Index	377
Fish	and shellfish	366		



CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

- 18801. Adulteration of bakery products. · U. S. v. Harry Linker and Ben Linker (Linker Bros. Baking Co.). Pleas of nolo contendere. Each defendant fined \$100, plus costs. Sentence suspended and defendants placed on probation for 2 years. (F. D. C. No. 32770. Sample Nos. 11901-L to 11908-L, incl.)
- INFORMATION FILED: April 17, 1952, Western District of Kentucky, against Harry Linker and Ben Linker, trading under the partnership name of Linker Bros. Baking Co.
- ALLEGED SHIPMENT: Between the approximate dates of October 26 and November 2, 1951, from the State of Kentucky into the State of Indiana.
- LABEL, IN PART: "Linker's Vienna Enriched," "Sweet Hearts," "Linker's Delicious Rolls," "Master White Bread," and "Bohemian Rye."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.
- DISPOSITION: June 6, 1952. Pleas of nolo contendere having been entered, the court fined each defendant \$100, plus costs. The fines and costs were suspended, and the defendants were placed on probation for 2 years.

CORN MEAL

- 18802. Adulteration of corn meal. U. S. v. 34 Bags * * * *. (F. D. C. No. 32676. Sample No. 35344-L.)
- Libel Filed: February 18, 1952, Northern District of Iowa.
- ALLEGED SHIPMENT: On or about December 28, 1951, from Milwaukee, Wis.
- PRODUCT: 34 100-pound bags of corn meal at Waterloo, Iowa, in possession of the Rath Packing Co.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent pellets; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- Disposition: March 24, 1952. Default decree of condemnation. The court ordered that the product be sold or delivered to an institution and that it be denatured for use as animal feed.
- 18803. Adulteration and misbranding of enriched corn meal. U. S. v. 421 Bags, etc. (F. D. C. No. 32552. Sample Nos. 32422-L to 32424-L, incl.)
- LIBEL FILED: February 29, 1952, Eastern District of Arkansas.
- ALLEGED SHIPMENT: On or about January 7 and 21, 1952, by Humphreys Mills, from Memphis, Tenn.
- PRODUCT: Enriched corn meal. 421 5-pound bags, 149 10-pound bags, and 128 25-pound bags at Jonesboro, Ark.
- Label, in Part: "Honey Suckle Enriched Bolted White Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched white corn meal since each pound contained less than 2 mg. of thiamine, less than 1.2 mg. of riboflavin, less than 16 mg. of niacin, and less than 13 mg. of iron.

DISPOSITION: April 14, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

. FLOUR

18804. Adulteration of flour. U. S. v. 457 Bags * * * *. (F. D. C. No. 32641. Sample Nos. 48247–L., 48249–L.)

LIBEL FILED: February 1, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: Between the approximate dates of November 16 and December 29, 1951, from Omaha, Nebr.

Product: 457 50-pound bags of flour at Davenport, Iowa, in possession of the Nash-Finch Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: March 10, 1952. The Nash-Finch Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. 193 bags of the flour were salvaged and the remainder used for animal feed.

18805. Adulteration of flour. U. S. v. 36 Bags, etc. (F. D. C. No. 32639. Sample Nos. 14053-L, 14054-L.)

LIBEL FILED: January 30, 1952, Western District of Texas.

ALLEGED SHIPMENT: On or about September 12 and November 14, 1951, from Monte Vista, Colo.

PRODUCT: Flour. 36 50-pound bags and 36 100-pound bags at El Paso, Tex., in possession of M. A. Gomez.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 7, 1952. The M. A. Gomez Wholesale Grocery having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed and labeled as unfit for human consumption, under the supervision of the Food and Drug Administration.

18806. Adulteration of flour. U. S. v. 155 Bags * * * (and 1 other seizure action). (F. D. C. No. 32642. Sample Nos. 20906–L, 20907–L.)

LIBELS FILED: February 4, 1952, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 17 and December 6, 1951, from Leavenworth, Kans.

PRODUCT: 167 10-pound bags of flour at Baton Rouge, La., in possession of the Louis Levy Grocer Co., Ltd.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 5, 1952. Default decrees of condemnation and destruction.

MISCELLANEOUS CEREALS*

18807. Adulteration of rice. U. S. v. 29 Bags, etc. (F. D. C. Nos. 32660, 32661. Sample Nos. 8337-L to 8339-L, incl.)

LIBEL FILED: February 15, 1952, Northern District of New York.

Alleged Shipment: On or about September 24, 1951, from New Orleans, La.

PRODUCT: Rice. 43 25-pound bags and 19 100-pound bags at Albany, N. Y., in possession of the Central Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 10, 1952. Default decree of condemnation and destruction.

18808. Adulteration of wheat. U. S. v. 1 Carload * * * *. (F. D. C. No. 32692. Sample No. 48222-L.)

LIBEL FILED: February 25, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about February 1, 1952, by the South Dakota Wheat Growers Assn., from Frankfort, S. Dak.

PRODUCT: 1 carload of wheat at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, and it was otherwise unfit for food by reason of the presence of musty wheat. (Examination disclosed that approximately 25 percent of the car had been plugged with insect-infested and musty wheat.)

DISPOSITION: February 27, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reprocessing. 70,680 pounds of the product were salvaged as fit for human consumption, and 36,080 pounds were denatured for use as stock feed.

^{*}See also No. 18832.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

CANDY*

18809. Adulteration of candy. U. S. v. 41 Boxes * * *. (F. D. C. No. 33665. Sample No. 36270-L.)

LIBEL FILED: August 27, 1952, Northern District of Ohio.

ALLEGED SHIPMENT: On or about May 16, 1952, by the Liberty Chocolate Co., from Boston, Mass.

PRODUCT: 41 boxes of candy at Youngstown, Ohio.

LABEL, IN PART: "120 Count 1 Cent Each Pie Plates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 1, 1952. Default decree of condemnation and destruction.

18810. Adulteration of candy. U. S. v. 16 Cartons * * * (F. D. C. No. 33634. Sample No. 22325–L.)

LIBEL FILED: August 7, 1952, Eastern District of Texas.

ALLEGED SHIPMENT: On or about June 19, 1952, by the Evansville Candy Mfg. Co., from Evansville, Ind.

PRODUCT: Candy. 16 cartons, each containing 240 suckers, at Sherman, Tex.

LABEL, IN PART: "Whistle Suckers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments.

Disposition: October 22, 1952. Default decree of condemnation and destruction.

18811. Adulteration of glace fruit. U. S. v. 3 Cases, etc. (F. D. C. No. 32670. Sample Nos. 7244–L to 7247–L, incl.)

LIBEL FILED: February 14, 1952, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 11 and 18, 1952, by the International Fruit Products Co., from Cincinnati, Ohio.

PRODUCT: 8 50-pound cases of glace cherries, 20 25-pound cases of glace pineapple pieces, and 100 30-pound cases of glace whole and broken cherries at Pittsburgh, Pa.

LABEL, IN PART: "Duquesne Brand Preserved Whole Cherries [or "Glace Pineapple Pieces" or "Preserved Whole and Broken Cherries"].

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 12, 1952. Default decree of condemnation. The court ordered that the products be delivered to a city zoo, for use as animal feed.

^{*}See also No. 18848.

CHOCOLATE

18812. Adulteration of chocolate coating. U. S. v. 311 Boxes * * *. (F. D. C. No. 32672. Sample No. 20909–L.)

LIBEL FILED: February 18, 1952, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about December 15, 1951, from Hershey, Pa.

PRODUCT: Chocolate coating. 311 boxes containing 16,400 pounds of the product at New Orleans, La. The product was subjected to fire while en route to New Orleans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its objectionable flavor and odor.

DISPOSITION: March 5, 1952. The Automobile Insurance Co. of Hartford, Conn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit portion and destruction of the remainder, under the supervision of the Food and Drug Administration. 2,950 pounds of the product were destroyed.

SIRUP AND SUGAR

18813. Adulteration and misbranding of sorghum sirup and cane sirup. U. S. v. 30 Cans, etc. (F. D. C. No. 32380. Sample Nos. 34202–L, 34203–L.)

Liber Filed: January 2, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about November 11, 1951, by Leroy Morehead, from Route 1, Conehatta, Miss.

PRODUCT: 30 1-gallon cans and 1,665 ½-gallon cans of sorghum sirup and 321 ½-gallon cans of cane sirup at Memphis, Tenn.

NATURE OF CHARGE: Sorghum sirup. Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted for sorghum; and, Section 402 (b) (4), corn sirup and sugar had been added to the product and mixed and packed with it so as to increase its bulk and weight. Misbranding, Section 403 (b), the product was offered for sale under the name of another food, namely, pure sorghum.

Cane sirup. Adulteration, Section 402 (b) (2), a mixture of cane sirup and corn sirup had been substituted for cane sirup; and, Section 402 (b) (4), corn sirup had been added to the product and mixed and packed with it so as to increase its bulk and weight. Misbranding, Section 403 (b), the product was offered for sale under the name of another food, namely, pure ribbon cane sirup.

Sorghum sirup and cane sirup. Misbranding, Sections 403 (e) (1) and (2), the products failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the products were fabricated from two or more ingredients, and their labels failed to bear the common or usual name of each such ingredient.

DISPOSITION: June 2, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be relabeled, under the supervision of the Federal Security Agency.

18814. Adulteration and misbranding of sorghum sirup. U. S. v. 15 Cans, etc. (F. D. C. No. 32476. Sample No. 32613-L.)

Libel Filed: February 4, 1932, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about January 9, 1952, by John Lansaw, from Joplin, Mo.

PRODUCT: Sorghum sirup. 15 1-gallon cans and 119 ½-gallon cans at Centralia, Ill.

LABEL, IN PART: "Pure Hancock County Sorghum E. D. Brown Rt. 2 Patesville, Ky."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sugar sirup, glucose, and sorghum had been substituted in whole or in part for pure sorghum.

Misbranding, Section 403 (a), the label designation "Pure * * * Sorghum" was false and misleading since the product was a mixture of sugar sirup, glucose, and sorghum; and, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, since the product was not manufactured, packed, or distributed by E. D. Brown, Route 2, Patesville, Ky., and some of the cans failed to bear an accurate statement of the quantity of the contents since they bore no statement of the quantity of the contents; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

Disposition: May 15, 1952. S. E. Boles, trading as S. E. Boles Fruit Market, Centralia, Ill., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be relabeled by the claimant, under the supervision of the Food and Drug Administration.

18815. Adulteration of sugar. U. S. v. 4,290 Bags, etc. (F. D. C. No. 32635. Sample Nos. 3430–L, 3829–L, 3830–L.)

LIBEL FILED: January 29, 1952, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 15, 1952, from Baltimore, Md.

PRODUCT: 5,130 100-pound bags of sugar at Hershey, Pa., in possession of the Hershey Chocolate Corp.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 21, 1952. The Hershey Chocolate Corp., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and re-refining of the unfit portion, under the supervision of the Food and Drug Administration. 4,787 bags of the product were re-refined.

MISCELLANEOUS SACCHARINE PRODUCT

18816. Misbranding of honey. U. S. v. 24 Jars, etc. (F. D. C. No. 32449. Sample Nos. 6332–L to 6337–L, incl.)

Libel Filed: January 23, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 8 and December 18, 1951, and January 5, 1952, by Charles Mraz, from Middlebury, Vt.

PRODUCT: 48 1-pound jars, 12 5-pound jars, 96 2½-ounce packages, 258 12-ounce packages, and 690 14-ounce packages of honey at Lowell, Mass., together with approximately 302 leaflets entitled "The Use of Honey" which had been

received from Charles Mraz at Middlebury, Vt., and transported to Lowell, Mass

LABEL, IN PART: "Champlain Valley Apiaries Bee Honey [or "Crystalized Bee Honey"]," "Delicious Vermont Comb Honey," or "Eatmore Honey Comb Honey."

Nature of Charge: Misbranding, Section 502 (a), certain statements in the leaflets entitled "The Use of Honey," which accompanied the article, were false and misleading since they represented and suggested that the article when used as directed was effective to enable one to relax and to induce sleep and that it was effective in the treatment of digestive disturbances, such as gas formation, heartburn, indigestion, stomach and intestinal ulcers, leg cramps, irregular pulse, high blood pressure, pain in the region of the heart, and dizziness, whereas the article was not effective for such purposes.

DISPOSITION: February 20, 1952. Charles Mraz, Middlebury, Vt., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the United States marshal destroy the leaflets which accompanied the article and release the honey to the claimant.

DAIRY PRODUCTS

BUTTER

18817. Adulteration of butter. U. S. v. 17 Boxes (1,088 pounds) * * *. (F. D. C. No. 33368. Sample No. 65262–L.)

LIBEL FILED: July 30, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 18, 1952, by the Star Creamery Assn., from Henderson, Minn.

Product: 17 64-pound boxes of butter at Philadelphia, Pa.

LABEL, IN PART: "Butter Distributed by C. W. Dunnet Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Sections 402 (a) (3) and (4), the article consisted in whole or in part of a filthy substance, namely, insect parts, rodent hairs, and manure, and it had been made from filthy cream.

DISPOSITION: August 13, 1952. The shipper having consented to the destruction of the product, judgment of condemnation was entered and the court ordered that the product be destroyed.

18818. Adulteration of butter. U. S. v. Charles A. Whitford (Whitford Mercantile Co. and Nowata Creamery Co.). Plea of guilty. Fine, \$50. (F. D. C. No. 30586. Sample No. 77908–K.)

INFORMATION FILED: May 13, 1952, Northern District of Oklahoma, against Charles A. Whitford, trading as the Whitford Mercantile Co. and the Nowata Creamery Co., at Nowata, Okla.

Alleged Violation: On or about December 28, 1940, and July 10, 1949, the defendant, at Nowata, Okla., in the names of the Whitford Mercantile Co. and the Nowata Creamery Co., gave to a firm engaged in the business of shipping butter in interstate commerce, at Carthage, Mo., guaranties to the effect that butter delivered by the defendant under the guaranties would not be adulterated.

On or about August 30, 1950, the defendant caused to be shipped from Nowata, Okla., to the holder of the guaranties at Carthage, Mo., a quantity of butter which was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the article, namely, milk fat, had been in part omitted; and Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter, which the article was represented to be.

DISPOSITION: September 18, 1952. A plea of guilty having been entered, the court imposed a fine of \$50.

CHEESE AND CHEESE PRODUCT

- 18819. Adulteration of grated cheese. U. S. v. Moss Food Products Corp., Murray E. Moss, and David Moss. Plea of guilty by corporation and pleas of nolo contendere by individuals. Corporation fined \$450; sentence suspended against individual defendants. (F. D. C. No. 31554. Sample Nos. 10346-L, 10347-L, 23711-L, 23955-L, 24146-L, 24147-L, 24269-L, 24271-L, 24771-L.)
- Information Filed: October 15, 1951, District of New Jersey, against the Moss Food Products Corp., North Bergen, N. J.; Murray E. Moss, president; and David Moss, treasurer.
- ALLEGED VIOLATION: Between the approximate dates of March 6 and April 25, 1951, a quantity of grated cheese was shipped by the defendants from the State of New Jersey into the States of Michigan, Connecticut, New York, and Pennsylvania. In addition, on or about April 18, 1951, the defendants received at North Bergen, N. J., a quantity of grated cheese which had been shipped in interstate commerce from Brooklyn, N. Y. While the product was being held for sale after shipment in interstate commerce, the defendants, within the period from on or about April 18, 1951, to on or about April 24, 1951, caused the food to be held under insanitary conditions whereby it may have become contaminated with rodent excreta and rodent hair fragments.
- LABEL, IN PART: "Lee Brand Grated Blend of Italian Romano and Domestic Romano Style Cheese," "Royal Seal Brand Grated Blend of Italian Romano and Domestic Romano Style Cheese * * * Packed for Di Leo Bros., Waterbury, Conn.," "Lee Brand Grated Domestic Parmesan Style Cheese," "Grated Cheese Romano Style," or "Lee Brand Grated Cheese Imported Argentine Parmesan Style With Domestic Italian Type."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.
- Disposition: May 9, 1952. A plea of guilty having been entered by the corporation and pleas of nolo contendere by the individuals, the court imposed a fine of \$450 against the corporation and suspended the sentence against the individual defendants.
- 18820. Adulteration of Welsh rabbit. U. S. v. 64 Cases * * * (F. D. C. No. 31970. Sample No. 25580–L.)
- Libel Filed: November 2, 1951, Eastern District of Pennsylvania.
- ALLEGED SHIPMENT: On or about September 13, 1951, by the Sue Ann Food Products Corp., from Chicago, Ill.
- Product: 64 cases, each containing 12 10-ounce jars, of Welsh rabbit at Philadelphia, Pa.
- Label, in Part: "Mar-Se Welsh Rarebit." 239636—53——2

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of mites.

DISPOSITION: April 22, 1952. Default decree of condemnation and destruction.

FISH AND SHELLFISH

18821. Adulteration of frozen dressed chum salmon. U. S. v. 16,000 Pounds * * *. (F. D. C. No. 32596. Sample No. 30632-L.)

Libel Filed: January 17, 1952, Western District of Washington.

ALLEGED SHIPMENT: On or about January 29, 1951, by the Vancouver Shellfish & Fish Co., from Vancouver, British Columbia.

Product: 16,000 pounds of frozen dressed chum salmon at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

Disposition: February 4, 1952. The San Juan Fishing & Packing Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit portion from the unfit, under the supervision of the Food and Drug Administration. 617 pounds were segregated and destroyed.

18822. Misbranding of canned crab meat. U. S. v. 65 Cases * * * *. (F. D. C. No. 32651. Sample No. 40512–L.)

LIBEL FILED: February 13, 1952, District of Oregon.

ALLEGED SHIPMENT: On or about December 21, 1951, by the Washington Fish and Oyster Co., from Seattle, Wash.

Product: 65 cases, each containing 48 unlabeled 7-ounce cans, of crab meat at Portland, Oreg.

NATURE OF CHARGE: Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), its label failed to bear the common or usual name of the food; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: April 1, 1952. The Yaquina Bay Fish Co., Newport, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

18823. Adulteration and misbranding of oysters. U. S. v. 304 Cans * * * (and 1 other seizure action). (F. D. C. Nos. 32590, 32592. Sample Nos. 3604-L, 4021-L.)

LIBELS FILED: January 12 and 15, 1952, Southern District of Ohio.

ALLEGED SHIPMENT: On or about January 8 and 9, 1952, by the Leib Packing Co., from Baltimore, Md.

PRODUCT: 608 1-pint cans of oysters at Xenia, Ohio.

LABEL, IN PART: "One Pint Oysters Standards Sun Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for oysters standards since it was not thoroughly drained, and in the preparation of the article, the total time of contact with water after leaving the shucker was more than 30 minutes; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans were short volume).

Disposition: February 19, 1952. Default decrees of condemnation and destruction.

18824. Misbranding of oysters. U. S. v. 2,384 Cans * * *. (F. D. C. No. 32315. Sample No. 4214–L.)

LIBEL FILED: On or about December 27, 1951, Southern District of Indiana.

ALLEGED SHIPMENT: On or about December 15, 1951, by Irvington Fish & Oyster Co., Inc., from Irvington, Va.

PRODUCT: 2,384 cans of oysters at Indianapolis, Ind.

LABEL, IN PART: "Oysters Standards Capitol Brand Fresh Raw Oysters One Pint."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since it was not thoroughly drained, and the oysters were in contact with water for more than 30 minutes after leaving the shucker.

Disposition: January 29, 1952. Default decree of forfeiture and destruction.

18825. Misbranding of oysters. U. S. v. 144 Cans * * *. (F. D. C. No. 32605. Sample Nos. 25778-L, 26194-L.)

LIBEL FILED: January 21, 1952, District of Kansas.

ALLEGED SHIPMENT: On or about January 15, 1952, by Robbins Bros., from Port Norris, N. J.

Product: 144 pint cans of oysters at Wichita, Kans.

Label, in Part: "Oysters Standards Jersey Best."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for oysters standards since it was not thoroughly drained; the amount of water used in the vessel into which the oysters were shucked was more than permitted; and the oysters were in contact with water for more than 30 minutes after leaving the shucker.

Disposition: April 3, 1952. Default decree of condemnation and destruction.

18826. Misbranding of oysters. U. S. v. 464 Cans * * *. (F., D. C. No. 32318. Sample No. 3422–L.)

LIBEL FILED: December 26, 1951, Southern District of Illinois.

Alleged Shipment: On or about December 15, 1951, by W. E. Riggin & Co., from Crisfield, Md.

PRODUCT: 464 cans of oysters at Springfield, Ill.

LABEL, IN PART: "Oysters Standards One Pint Rigco Brand."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled "One Pint."

DISPOSITION: January 19, 1952. Default decree of condemnation and destruction.

18827. Misbranding of oysters. U. S. v. 434 Cans * * *. (F. D. C. No. 32314. Sample No. 3595–L.)

LIBEL FILED: December 20, 1951, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 14, 1951, by the Crisfield Supply Co., from Crisfield, Md.

PRODUCT: 434 cans of oysters at Scranton, Pa.

LABEL, IN PART: "Oysters Standards One Pint."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled "One Pint."

DISPOSITION: March 5, 1952. Default decree of forfeiture and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

18828. Adulteration of canned mashed bananas. U. S. v. 56 Cases * * *. (F. D. C. No. 32658. Sample No. 16982–L.)

LIBEL FILED: February 11, 1952, Southern District of California.

Alleged Shipment: On or about September 11, 1951, from New York, N. Y.

PRODUCT: 56 cases, each containing 10 6-pound, 8-ounce cans, of canned mashed bananas at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 7, 1952. Default decree of condemnation and destruction.

18829. Adulteration of canned boysenberries. U. S. v. 1,397 Cases * * * (F. D. C. No. 32072. Sample No. 13591-L.)

LIBEL FILED: November 6, 1951, District of Colorado.

Alleged Shipment: On or about February 20, 1951, from Salem, Oreg.

PRODUCT: 1,397 cases, each containing 48 8½-ounce cans, of boysenberries at Denver, Colo.

LABEL, IN PART: "Red Tag Boysenberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 17, 1951. Safeway Stores, Inc., Denver, Colo., claimant, having consented to the entry of a decree, judgment of condemnation was entered. The court ordered that the product be released under bond for segregation into three groups; that the first group be released for sale by the

claimant; that the second be disposed of as ordered by the Food and Drug Administration; and that the third be released for reprocessing by Paulus Bros., Salem, Oreg., under the supervision of the Food and Drug Administration. 389 cases of the product were delivered to Paulus Bros. and were recanned, resulting in the salvaging of 358½ cases.

DRIED FRUIT

- 18830. Adulteration of dried mixed fruit and dried pears. U. S. v. 50 Cartons, etc. (and 1 other seizure action). (F. D. C. Nos. 32999, 33022. Sample Nos. 1970-L to 1972-L, incl., 5093-L.)
- LIBELS FILED: March 31 and April 8, 1952, Southern District of Florida and District of Massachusetts.
- ALLEGED SHIPMENT: On or about February 15 and 28, 1952, by Rosenberg Bros. & Co., Inc., from Oakland and Fresno, Calif.
- PRODUCT: 50 cartons, each containing 24 12-ounce packages, of dried mixed fruit, and 8 cartons, each containing 24 1-pound bags, 6 cartons, each containing 25 pounds, and 24 cartons, each containing 24 12-ounce packages, of dried pears, at Miami, Fla., and Somerville, Mass.
- LABEL, IN PART: "Sugaripe Fancy Mixed Fruit," "Sugaripe Brand California Dried Fruits Large Pears," "Ensign Brand California Dried Fruit Fancy Pears," and "Ensign Brand California Dried Fancy Halved Pears."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect excreta, rodent hairs, and rodent excreta; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.
- DISPOSITION: June 2, 1952. Default decrees of condemnation and destruction.

VEGETABLES

- 18831. Adulteration of dried kidney beans. U. S. v. 500 Cases * * *. (F. D. C. No. 32574. Sample No. 10530-L.)
- LIBEL FILED: March 5, 1952, Northern District of Illinois.
- ALLEGED SHIPMENT: On or about October 23, 1951, by the Washburn-Wilson Seed Co., from Batavia, N. Y.
- Product: 500 cases, each containing 24 1-pound packages, of dried kidney beans at Chicago, Ill.
- LABEL, IN PART: "Washburn's Fancy Kidney Beans."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of stones and hardened clumps of dirt.
- Disposition: April 3, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by cleaning and the removing of all foreign matter, under the supervision of the Food and Drug Administration. A total of 90 pounds of dirt and foreign materials was destroyed.

18832. Adulteration of dried whole green peas, dried split green peas, and rice. U. S. v. 90 Bags, etc. (F. D. C. No. 33140. Sample Nos. 16807-L to 16809-L, incl.)

LIBEL FILED: May 21, 1952, Southern District of California.

ALLEGED SHIPMENT: On or about January 15 and March 12, 1952, from Spokane, Wash., and Mermentau, La.

Product: 90 100-pound bags of dried whole green peas, 105 100-pound bags of dried split green peas, and 150 100-pound bags of rice, at Los Angeles, Calif., in possession of Casaus Bros.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), the articles had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

Disposition: June 9, 1952. Casaus Bros., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for cleaning and reconditioning, under the supervision of the Federal Security Agency. The reconditioning operations resulted in the release of 4,586 pounds of dried whole green peas, 8,232 pounds of dried split green peas, and 14,889 pounds of rice as fit for human consumption.

TOMATOES AND TOMATO PRODUCTS

18833. Misbranding of canned tomatoes. U. S. v. 124 Cases * * * *. (F. D. C. No. 31745. Sample No. 23752–L.)

LIBEL FILED: October 1, 1951, District of Connecticut.

ALLEGED SHIPMENT: On or about August 15, 1951, by the Woodside Canning Co., from Woodside, Del.

Product: 124 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Waterbury, Conn.

LABEL, IN PART: "Zakly-Rite Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel, and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: June 27, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18834. Misbranding of canned tomatoes. U. S. v. 199 Cases * * * *. (F. D. C. No. 31940. Sample No. 37457-L.)

LIBEL FILED: October 30, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about September 18, 1951, by the Albertson Packing Co., from Hope, N. J.

Product: 199 cases, each containing 6 cans, of tomatoes at New York, N. Y.

Label, IN Part: "Clarkdale Brand Solid Packed Whole Tomatoes Drained Weight 78 Oz."

- NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Solid Packed Whole Tomatoes Drained Weight 78 Oz." was false and misleading since the product contained broken pieces of tomatoes and had an average drained weight of less than 78 ounces.
- Disposition: February 19, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.
- 18835. Adulteration of tomato paste. U. S. v. 499 Cases, etc. (and 5 other seizure actions). (F. D. C. Nos. 32415, 32416, 32418, 32424, 32425, 32437. Sample Nos. 3482-L, 17856-L, 17857-L, 23927-L, 26921-L, 26922-L, 26925-L to 26927-L, incl., 27131-L, 29751-L, 37983-L.)
- LIBELS FILED: January 11, 14, 16, 23, and 28, and February 6, 1952, District of New Jersey, Northern and Southern Districts of California, Western District of Washington, and Eastern District of Virginia.
- ALLEGED SHIPMENT: On or about May 8, 14, 23, 24, and 28, and June 19, 1951, by the Anglo-American & Overseas Corp., from Brooklyn and New York, N. Y.
- PRODUCT: 3,464 cases, each containing 6 cans, and 4,210 cases, each containing 10 cans, of tomato paste at Bayonne, N. J.; Oakland, Stockton, and San Diego, Calif.; Seattle, Wash.; and Norfolk, Va.
- Label, in Part: (Can) "Halisco Concentrated Tomato Paste Dry Extract 28% 1950 Product of France Net Weight: about 10 lbs. 2 ozs.," "J. O. C. Extrait De Tomates Poids Net Environ 4 Kgs 500," "Les Boules Rouges Extrait De Tomates Poids Net 4 Ko 500 Environ," "Tomato Paste Dry Extract 28% 1950 Product of France Nett Weight: lbs. 10 2 oz.," "High Concentrated Hungarian Tomato Paste Contents 160½ Oz. Net Hungarian Product," "Tomato Paste Made in Hungary 160½ Oz. Net Golden Pheasant," "Tomato Paste Product of Geremia Greci & Figli Parma (Italy) Nett Weight Lbs. 10," and "Tomato Paste Concentrato di Pomodoro Dry Matter 27/29% Net Weight Lbs. 9. 14 Ozs. Product of Italy."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION: May 6, June 2, 5, 9, 10, and 12, and July 29, 1952. Default decrees of condemnation and destruction.
- 18836. Adulteration of tomato sauce. U. S. v. 172 Cases * * *. (F. D. C. No. 32648. Sample No. 7285–L.)
- LIBEL FILED: February 5, 1952, Western District of New York.
- ALLEGED SHIPMENT: During December 1946, from Indianapolis, Ind.
- PRODUCT: 172 cases, each containing 24 10½-ounce cans, of tomato sauce at Buffalo, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce. (Examination showed that it was undergoing chemical decomposition.)
- DISPOSITION: March 4, 1952. Default decree of condemnation and destruction.

MEAT AND POULTRY

18837. Adulteration and misbranding of horse meat. U. S. v. Max Dubin (Canal Street Market). Plea of nolo contendere. Fine of \$1,000 (\$500 on each of counts 1 and 4); probation for 1 year on remaining counts. (F. D. C. No. 32756. Sample Nos. 5474–L, 5477–L, 5478–L, 5481–L, 5482–L.)

INDICTMENT RETURNED: June 10, 1952, District of Rhode Island, against Max Dubin, trading as the Canal Street Market, at Providence, R. I.

INTERSTATE SHIPMENT: Prior to the date of the sales described below, various quantities of horse meat were shipped in interstate commerce into the State of Rhode Island.

Alleged Violation: On or about July 27 and 28 and August 2, 1951, while the horse meat was being held for sale after shipment in interstate commerce, the defendant, Max Dubin, caused various quantities of it to be displayed in a showcase at the Canal Street Market and caused various quantities to be sold as beef hamburg, lamb patties, beef cube steaks, beef stew meat, and beef tenderloin steak, which acts resulted in the horse meat being adulterated and misbranded.

LABEL, IN PART: (Placard displayed in close proximity to the product sold as ground beef hamburg) "Fresh Ground Hamburg."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), horse meat had been substituted in part for beef hamburg, lamb patties, beef cube steaks, beef stew meat, and beef tenderloin steak.

Misbranding, Section 403 (b), the article had been offered for sale under the names of various other foods, namely, beef hamburg, lamb patties, beef cube steaks, beef stew meat, and beef tenderloin steak; and, Section 403 (a), the statement "Fresh Ground Hamburg," borne on the placard accompanying a portion of the article, was false and misleading since the statement represented and suggested that the article was beef hamburg, whereas it was not beef hamburg.

DISPOSITION: June 18, 1952. A plea of nolo contendere having been entered by the defendant, the court imposed a fine of \$500 on each of counts 1 and 4 of the indictment and placed the defendant on probation for 1 year on each of the remaining counts. Probation on each of the 8 counts was to run concurrently.

18838. Adulteration of poultry. U. S. v. 5,559 Pounds * * * *. (F. D. C. No. 32624. Sample No. 48232–L.)

LIBEL FILED: January 24, 1952, District of Minnesota.

Alleged Shipment: On or about December 30, 1951, by P. G. Gray, from Estherville, Iowa.

PRODUCT: 5,559 pounds of poultry at St. Paul, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: March 10, 1952. A default decree was entered, and the court ordered that the product be denatured for use as animal feed or be destroyed. The product was used for hog feed.

OHLS AND FATS

- 18838. Misbranding of oil. U. S. v. John Minervini. Plea of guilty. Fine, \$1,000. (F. D. C. No. 30056. Sample Nos. 57230–K, 74692–K.)
- Information Filed: January 17, 1951, District of New Jersey, against John Minervini, Hoboken, N. J.
- ALLEGED SHIPMENT: On or about August 29, 1949, and January 30, 1950, from the State of New Jersey into the States of New York and Connecticut.
- LABEL, IN PART: (Cans) "Fabiola Brand * * * 90% Peanut Oil 10% Pure Imported Olive Oil Packed by Fabiola Food Products Hoboken, N. J."
- NATURE OF CHARGE: Misbranding, Section 403 (a), the statement "90% Peanut Oil" borne on the can labels was false and misleading since the product contained little or no peanut oil; and, Section 403 (k), the product in the shipment of August 29, 1949, contained artificial flavor and failed to bear labeling stating that fact.
- DISPOSITION: A plea of not guilty having been entered, the case came on for trial on January 23, 1952. The trial was interrupted at the conclusion of the testimony of the Government's first witness, and the defendant changed his plea to guilty. The court imposed a fine of \$500 on each of the 2 counts of the information.
- 18840. Adulteration and misbranding of oil. U. S. v. 39 Cans * * *. (F. D. C. No. 32301. Sample No. 15366–L.)
- LIBEL FILED: December 26, 1951, Western District of Missouri.
- ALLEGED SHIPMENT: On or about September 6, 1951, by the Chicago Macaroni Co., from Chicago, Ill.
- PRODUCT: 39 1-gallon cans of oil at Kansas City, Mo.
- LABEL, IN PART: "Italy Brand Table Oil Blend An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Pure Olive Oil."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been omitted from the product; and, Section 402 (b) (2) oil in the nature of corn oil containing little or no olive oil had been substituted for a blend of eighty percent corn oil and twenty percent pure olive oil.
 - Misbranding, Section 403 (a), the label designation "Twenty Per Cent of Pure Olive Oil" was false and misleading.
- DISPOSITION: April 3, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.
- 18841. Adulteration and misbranding of oil. U. S. v. 20 Cases * * *. (F. D. C. No. 32621. Sample No. 48213-L.)
- LIBEL FILED: January 24, 1952, District of Minnesota.
- ALLEGED SHIPMENT: On or about December 6, 1951, by the Chicago Macaroni Co., from Chicago, Ill.
- Product: 20 cases, each containing 6 1-gallon cans, of oil at St. Paul, Minn.
- LABEL, IN PART: "One Gallon Italy Brand Table Oil Blend An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Imported Olive Oil."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), cottonseed oil with little or no olive oil had been substituted in whole or in part for a blend of eighty percent corn oil and twenty percent imported olive oil.

Misbranding, Section 403 (a), the label statement "An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Imported Olive Oil" was false and misleading.

DISPOSITION: April 9, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions or be destroyed.

OLEOMARGARINE

18842. Misbranding of oleomargarine. U. S. v. 27 Cases (F. D. C. Sample No. 16113-L.) No. 32628.

LIBEL FILED: January 24, 1952, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about January 4, 1952, by Kent Products, Inc., from Kansas City, Mo.

Product: 27 cases, each containing 32 1-pound cartons, of oleomargarine at Oklahoma City, Okla.

LABEL, IN PART: "Net Wt. One Lb. 4 Quarters Yellow Richmade Brand Vegetable Oleomargarine."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the packages contained less than the labeled weight; and, Section 403 (a), the label designation "4 Quarters" was false and misleading since the product was not in quarters but was in one piece.

DISPOSITION: March 31, 1952. Default decree of condemnation. ordered that the product be delivered to a charitable institution.

SPICES, FLAVORS, AND SEASONING MATERIALS

18843. Adulteration of poppy seed, cumin seed, and sesame seed. U. S. v. 35 (F. D. C. No. 32166. Sample Nos. 27100-L, 27101-L, Bags, etc. 27138-L.)

Libel Filed: November 23, 1951, Northern District of California.

ALLEGED SHIPMENT: The sesame seed was shipped on or about January 16, 1951, from China; the poppy seed was shipped prior to January 25, 1951, from Czechoslovakia; and the cumin seed was shipped on or about April 28, 1951, from India.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 7, 1951. D. Hecht & Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the products be released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. 2,975 pounds of poppy seed, 6,750 pounds of cumin seed, and 3,512 pounds of sesame seed were salvaged.

18844. Misbranding of black pepper. U. S. v. 13 Cases * No. 31478. Sample No. 20824–L.)

LIBEL FILED: August 20, 1951, Southern District of Alabama.

ALLEGED SHIPMENT: On or about January 30, 1951, by the New Orleans Import Co., Ltd., from New Orleans, La.

PRODUCT: 13 cases, each containing 240 1-ounce cans, of black pepper at Selma, Ala.

LABEL, IN PART: "Net Wt. 1 Ounce Rex Spices Finest Pure Ground Pepper."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the labeled weight of 1 ounce.)

DISPOSITION: April 30, 1952. The shipper, claimant, having admitted that the product was misbranded, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged, under the supervision of the Food and Drug Administration.

18845. Adulteration and misbranding of lemon oil. U. S. v. 2 Cans * * *. (F. D. C. No. 31505. Sample No. 31183-L.)

LIBEL FILED: September 5, 1951, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about July 10, 1951, by Polaks Frutal Works, Inc., from Middletown, N. Y.

Product: 2 cans, each containing 35 pounds, of lemon oil at Sullivan, Ill.

LABEL, IN PART: (Can) "Lemon Oil California Pressed USP."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an oil other than oil expressed from the peel of lemons had been substituted in whole or in part for lemon oil U. S. P.

Misbranding, Section 403 (a), the label designation "Lemon Oil * * * USP" was false and misleading as applied to an oil other than oil expressed from the peel of lemons.

Disposition: December 7, 1951. Default decree of condemnation. The court ordered that the marshal deliver the article to charitable institutions or destroy it. It was delivered to local charitable institutions.

18846. Adulteration and misbranding of salad dressing. U. S. v. 47 Jars * * *. (F. D. C. No. 32006. Sample No. 32542-L.)

LIBEL FILED: November 8, 1951, Western District of Arkansas.

ALLEGED SHIPMENT: On or about October 26, 1951, by the Henderson Coffee Co., from Muskogee, Okla.

Product: 47 gallon jars of salad dressing at Fort Smith, Ark.

LABEL, IN PART: "Henderson's Best * * * Salad Dressing."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in whole or in part omitted.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for salad dressing since it contained less than 30 percent by weight of vegetable oil and since it contained benzoate of soda, which is not permitted as an ingredient of salad dressing.

Disposition: December 27, 1951. The Henderson Coffee Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

18847. Adulteration and misbranding of vitamin A and D tablets. U. S. v. Midwest Chemical Development Corp. Plea of nolo contendere. Fine, \$400. (F. D. C. No. 31581. Sample Nos. 24149-L, 24442-L.)

Information Filed: February 7, 1952, Northern District of Ohio, against the Midwest Chemical Development Corp., Cleveland, Ohio.

ALLEGED SHIPMENT: On or about March 8 and April 12, 1951, from the State of Ohio into the State of New York.

LABEL, IN PART: "Natural Vitamin A & D Tablets Food Supplement Distributed by Sturdee Health Foods * * * Brooklyn, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the article, namely, vitamins A and D, had been in part omitted and abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each tablet contains: Vitamin A 5,000 USP Units Vitamin D 1,000 USP Units" was false and misleading since the article contained less than 5,000 U. S. P. units of vitamin A and less than 1,000 U. S. P. units of vitamin D.

The information alleged also that two other articles, known as allylisopropyl barbiturate sodium capsules and Hemotene tablets, were adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3804.

DISPOSITION: June 27, 1952. A plea of nolo contendere having been entered, the court imposed a fine of \$400.

18848. Adulteration and misbranding of vitamin lollipops. U. S. v. 114 Packages * * *. (F. D. C. No. 31968. Sample No. 25750-L.)

LIBEL FILED: November 1, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 17, 1951, by the Sternfeld Pharmacal Corp., from Albany, N. Y.

Product: 114 packages of vitamin lollipops at Philadelphia, Pa.

LABEL, IN PART: "Vitamin Lollipops Contents 8 Lollipops Each Vitamin Lollipop contains * * * Vitamin B₁, 0.33 mg."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Vitamin Lollipop contains * * Vitamin B₁, 0.33 mg." was false and misleading since the product contained less than 0.33 mg. of vitamin B₁. Further misbranding, Section 403 (a), the label statements "The above is as recommended by the National Research Council for the average child between ages of 1 to 12 * * * Children will like this lollipop way to get their vitamins every day" were false and misleading since the National Research Council does not recommend the use of this lollipop to supply vitamins to children and since the article did not supply all the essential vitamins.

Disposition: January 23, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable cause.

^{*}See also No. 18803.

MISCELLANEOUS FOODS

18849. Adulteration of yeast food. U. S. v. 20 Bags * * * *. (F. D. C. No. 32056. Sample No. 32589–L.)

LIBEL FILED: October 31, 1951, Southern District of Illinois.

ALLEGED SHIPMENT: On or about October 22, 1951, by Anheuser-Busch, Inc., from St. Louis, Mo.

PRODUCT: 20 50-pound bags of yeast food at Alton, Ill.

LABEL, IN PART: "Anheuser-Busch A-B Yeast Food."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: December 5, 1951. Default decree of condemnation and destruction.

18850. Adulteration of dessert powder mix. U. S. v. 16 Cases * * *. (F. D. C. No. 32073. Sample No. 29532-L.)

LIBEL FILED: November 9, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about April 27, 1947, from Chicago, Ill.

Product: 16 cases, each containing 48 1½-ounce packages, of dessert powder mix at Tacoma, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 18, 1952. Default decree of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 18801 TO 18850

PRODUCTS

TRODUCTS		
N. J. No.	N. J. No.	
Bakery products 18801	Fats. See Oils and fats.	
Bananas, mashed, canned 18828	Fish and shellfish 18821-18827	
Beans, kidney, dried 18831	Flavors. See Spices, flavors, and	
Boysenberries, canned 18829	seasoning materials.	
Bread and rolls 18801	Flour 18804-18806	
Butter 18817, 18818	Fruits and vegetables 18828–18836	
Candy 18809–18811, 18848	fruit, canned 18828, 18829	
Cane sirup 18813	dried 18830	
Cereals and cereal products 18801-	tomatoes and tomato prod-	
18808, 18832	ucts 18833-18836	
Cheese, grated18819	vegetables 18831, 18832	
Chocolate coating 18812	Glace fruit 18811	
Corn meal 18802, 18803	Honey 18816	
Crab meat, canned 18822	Horse meat 18837	
Cumin seed 18843	Kidney beans, dried 18831	
Dairy products 18817–18820	Lemon oil 18845	
Dessert powder mix 18850	Lemon on 18848	

N. J. No.

N. J. No.

*1	. 0. 210.	***	0. 1.0.
Lollipops, vitamin	18848	Sirup, cane	18813
Meat and poultry 18837	, 18838	sorghum 18813,	18814
Oils and fats 18839		Sorghum sirup 18813,	
Oleomargarine		Spices, flavors, and seasoning	
Oysters 18823	-18827	materials 18843-	-18846
Pears, dried	18830	Sugar	18815
Peas, green, split and whole,		Tomato(es), canned 18833,	18834
dried	18832	paste	18835
Pepper, black	18844	sauce	18836
Poppy seed	18843	Vegetables. See Fruits and vege-	
Poultry. See Meat and poultry.		tables.	
Rice 18807	, 18832	Vitamin, mineral, and other prod-	
Rolls. See Bread and rolls.		ucts of special dietary sig-	
Salad dressing	18846	nificance 18803, 18847,	18848
Salmon, chum, frozen dressed	18821	Welsh rabbit	18820
Sesame seed	18843	Wheat	18808
Shellfish. See Fish and shellfish.	1	Yeast food	18849
SHIPPERS, MANUI	FACTUR	ERS, AND DISTRIBUTORS	
N	J. No. 1	N.	J. No.
Albertson Packing Co.:		Gomez, M. A.:	
canned tomatoes		flour	18805
Anglo-American & Overseas		Gray, P. G.:	10000
Corp.:		poultry	18838
-	18835	Henderson Coffee Co.:	10000
Anheuser-Bush, Inc.:	10000	salad dressing	18846
yeast food	18849	Hershey Chocolate Corp.:	10010
Brown, E. D.:	10010	sugar	18815
sorghum sirup	18814	Humphreys Mills:	10019
Canal Street Market. See Dubin,		enriched corn meal	18803
Max.		International Fruit Products Co.:	10000
Casaus Bros.:		glace fruit	18811
dried whole green peas, dried		Irvington Fish & Oyster Co., Inc.:	10011
split green peas, and rice	18839	oysters	19994
Central Warehouse:	10002	Kent Products, Inc.:	10021
rice	18807	oleomargarine	100/19
Chicago Macaroni Co.:	. 10001	Lansaw, John:	10012
oil 18840,	18841	sorghum sirup	10011
Crisfield Supply Co.:	10041	Leib Packing Co.:	10014
oysters	10097		10099
Dubin, Max:	10021	OystersCross Co. Itd.	10049
horse meat	10097	Levy, Louis, Grocer Co., Ltd.:	10000
Dunnet, C. W.:	10001	flour	19900
butter	10017	Liberty Chocolate Co.:	10000
,		candy	18809
Evansville Candy Mfg. Co.:		Linker, Ben, and Harry:	10001
Candy	19810	bread and rolls	18801
Fabiola Food Products:	10000	Linker Bros. Baking Co. See	
oil	18839	Linker, Ben, and Harry.	

N.	J. No.	N.	J. No.
Midwest Chemical Development		Rosenberg Bros. & Co., Inc.:	
Corp.:		dried mixed fruit and dried	
vitamin A and D tablets	18847	pears	18830
Minervini, John:		South Dakota Wheat Growers	
oil	18839	Assn.:	
Morehead, Leroy:		wheat	18808
sorghum sirup and cane sirup	18813	Star Creamery-Assn.:	
Moss, David, and M. E.:		butter	18817
grated cheese	18819	Sternfeld Pharmacal Corp.:	
Moss Food Products Corp.:		vitamin lollipops	18848
grated cheese	18819	Sturdee Heath Foods:	
Mraz, Charles:		vitamin A and D tablets	18847
honey	18816	Sue Ann Food Products Corp.:	
Nash-Finch Co.:		Welsh rabbit	18820
flour	18804	Vancouver Shellfish & Fish Co.:	
New Orleans Import Co., Ltd.:		frozen dressed chum salmon	18821
black pepper	18844	Washburn-Wilson Seed Co.:	
Nowata Creamery Co. See Whit-		dried kidney beans	18831
ford, C. A.		Washington Fish & Oyster Co.:	
Polaks Frutal Works, Inc.:		canned crab meat	18822
lemon oil	18845		
Rath Packing Co.:		butter	18818
corn meal	18802	Whitford Mercantile Co. See	
Riggin, W. E., & Co.:		Whitford, C. A.	
oysters	18826	Woodside Canning Co.:	
Robbins Bros.:		canned tomatoes	18833
oysters	18825		



The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

18851-18900

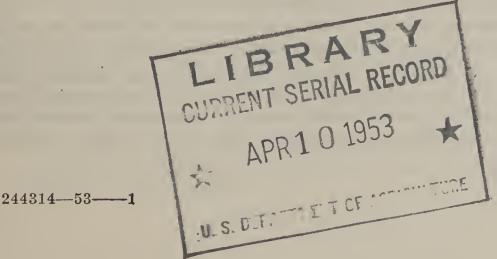
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations by the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, Commissioner of Food and Drugs. Washington, D. C., March 25, 1953.

CONTENTS

	Page		Page
Beverages and beverage materials	382	Fish and shellfish	394
Candy, sirup, and sugar	386	Fruits and vegetables	395
Candy	386	Canned fruit	395
Sirup	387	Dried fruit	396
Sugar	388	Vegetables	397
Cereals and cereal products	388	Tomatoes and tomato products	398
Bakery products	388	Oils and fats	399
Flour	389	Poultry	401
Miscellaneous cereal	391	Spices, flavors, and seasoning mate-	
Dairy products	391	rials	401
Butter	391	Vitamin, mineral, and other prod-	
Cheese	392	ucts of special dietary sig-	
Miscellaneous dairy product	392	nificance	402
Feeds and grains	393	Index	404



381

BEVERAGES AND BEVERAGE MATERIALS*

18851. Misbranding and alleged adulteration of Quenchies. U. S. v. 70 Gross Bottles * * *. Tried to the court. Verdict for claimant with respect to adulteration charge and verdict for Government with respect to misbranding charge. Decree of condemnation and destruction. (F. D. C. No. 26389. Sample No. 44321-K.)

LIBEL FILED: January 11, 1949, Southern District of Ohio; amended libel filed May 6, 1952.

Alleged Shipment: On or about November 26, 1948, by the Wafer-Fizz Corp., from New York, N. Y.

PRODUCT: 70 gross bottles of Quenchies at Columbus, Ohio. Examination showed that the product was a tablet intended to produce soft drinks in the home when mixed with water. The sweetening of the tablet was due to the presence of saccharin. The product was offered for general sale to the public.

Label, in Part: (Bottle) "Contents 12 Wafers of Quenchies * * * Sparkling Flavored Sodas."

NATURE OF CHARGE: Original libel. Adulteration, Section 402 (b) (1), sugar, one expected constituent of a soft drink, or soft drink base, had been omitted; and, Section 402 (b) (2), a flavored mixture containing saccharin, a non-nutritive substance, had been substituted for one, the sweetening ingredient of which is sugar.

Adulteration, Section 402 (b) (1), the article purported Amended libel. to be and was represented as a complete base, to which only water need be added, to make a carbonated soda beverage, whereas sugar, an essential ingredient of such a base, had been omitted; and, Section 402 (b) (2), saccharin, a nonnutritive substance, had been substituted for sugar, an essential ingredient in a complete base for making a carbonated soda beverage. Misbranding, Section 403 (a), the labeling of the article contained statements and designs which represented and suggested that the article would, with the addition of water alone, make a carbonated soda beverage, which statements and designs were false and misleading since the article would not, with the addition of water alone, make a carbonated soda beverage; Section 403 (f), the information required by the Act to appear on the label, namely, the common or usual name of each ingredient contained in the article, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, or designs on the label) and in such terms, with respect to the statement "Terpeneless Oil of Fruit" appearing on the cherry and strawberry flavor labels, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and, Section 403 (k), the article contained artificial (cherry and strawberry) flavor and failed to bear labeling stating that fact.

DISPOSITION: On May 16, 1949, the Wafer-Fizz Corp., claimant, filed an answer denying the interstate shipment and the adulteration of the article, as alleged in the libel. Thereafter, the Government filed 16 interrogatories to be answered by the claimant, to which the claimant filed objections. On April 18, 1951, with respect to the claimant's objections to 4 of the interrogatories on the ground that the matters to which such interrogatories related were not matters of fact within the claimant's knowledge and would require research and

^{*}See also No. 18888.

investigations, the court ruled that such objections were well taken and need not be answered. However, as to the objections to the remaining interrogatories, the court found that such objections were not well taken and ordered that the claimant answer these interrogatories.

The case subsequently came on for trial before the court on May 6, 1952, at which time a request to amend the libel was made on behalf of the Government. After discussion of the matter with counsel, the court allowed an amendment to be made with respect to the adulteration charges, but denied at that time an amendment with respect to adding the misbranding charges (such amendment was added subsequent to the trial).

Following the trial of the case, permission was granted by the court for the filing of briefs by counsel, and after consideration of these briefs and the evidence submitted at the trial, the court, on July 3, 1952, handed down the following opinion:

STATEMENT OF FACTS

Picard, District Judge: "Government libel action urging that the defendant articles seized herein, 70 gross bottles each containing 12 wafers of Quenchies sparkling flavored soda, be condemned as violating 21 USC 301 et seq., the Food, Drug and Cosmetic Act of 1938, on the specific charge that the substitution of non-nutritive saccharin for nutritive sugar in any food product (except special dietary food products) constitutes an adulteration within the meaning of the Act. The beverage base is in tablet or wafer form for use in preparing carbonated soft drinks. Each flavor has a different color; when dropped into a glass of water this tablet or wafer colors, flavors, sweetens and gives it the appearance of being carbonated. Properly dissolved per directions, the final product is one part saccharin to 10,000 parts water.

"The label stipulates in small type:

Ingredients: Citric Acid, Tartaric Acid, Sodium Bicarbonate, Artificial F.avoring, Certified Food Color, Saccharin, Vitamin B_1 added. Non-fattening—Each wafer contains 0.33 grain saccharin. Saccharin has no food value.

"Plaintiff government admits that the Federal Security Administrator has not promulgated a formal standard for a soft drink base and, therefore, that trade and consumer understanding must prevail. Accordingly, the government advances the argument that sugar is an expected ingredient in a complete carbonated soda beverage base and that saccharin, having no food value, cannot be substituted therefor. Its use, the government contends, amounts to adulteration.

"Before proceeding to the actual determination of the issues, leave is hereby granted plaintiff to amend the libel to conform to the proof that the article is misbranded by reason of false and misleading label statements and the inconspicuous nature of said required statements, in accord with Rule 15 (b) which provides for the amendment of pleadings to conform with the evidence.

ISSUES

"Presently before the court are the questions whether the seized articles are adulterated by reason of the saccharin substituted for sugar in the base and/or whether the articles are misbranded.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

"Food, in the federal law, includes drink and adulteration thereof, if established, cannot be corrected by labeling; the sole exception is 403 (j) designating special dietary uses, not applicable herein. The particular section of the Federal Food, Drug, and Cosmetic Act involved is section 402 (b) which sets forth that a food shall be deemed adulterated

(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; * * *

"This court in no way seeks to relax regulations of the Federal Food, Drug, and Cosmetic Act or narrow their scope. Their very purpose is protective and conducive to the welfare of the general public in the most important field of food. To accomplish this and we grant for the purpose of this opinion that the general purpose of the law was stated correctly in United States v. 88 Cases more or less, containing Bireley's Orange Beverage, 187 F. 2d 967—

The correct standard was the reaction of the ordinary consumer under such circumstances as attended retail distribution of this product. When a statute leaves such a matter as this without specification, the normal inference is that the legislature contemplated the reaction of the ordinary person who is neither savant nor dolt, who lacks special competency with reference to the matter at hand but has and exercises a normal measure of the layman's common sense and judgment.

See also Bruce's Juices, Inc., v. United States, 194 F. 2d 935: United States v. Allbrook Freezing & Cold Storage, 194 F. 2d 937, and Bowles v. Sneider, 62 Fed. Supp. 916, where the court held that if you are going to let the consumer decide, then you ought to take a poll of the sentiment throughout the United

States and not limit it to one locality.

"But some thirteen years ago the Secretary of Agriculture indicated (Federal Register February 17, 1939) that he would promulgate a standard for a soft drink base or at least a soft drink. He has not done so and we do not believe that it is the duty of this court to substitute its own standard of such a formula on an issue as important as the substitution of saccharin for sugar. If the Administrator couldn't find it advisable to set such a regulation after this length of time, how can the court be certain that with his limited knowledge of the facts any finding of his will not be unfair to one group or the other. It appears to us that this is more a matter for the states to regulate if the federal government fails to act. In fact 39 states have already adopted laws governing the use of saccharin for sugar in some foods and drinks. But it must be remembered that it is agreed here that saccharin is non-poisonous and non-deleterious. This was not true in United States v. 36 Drums of Pop'n Oil, 164 F. 2d 250.

"Saccharin is also allegedly non-nutritious. Unlike sugar it does not build calories. It merely sweetens. But this very characteristic is a quality that is much desired and sought by many who fear that their waistline may unduly expand with the use of sugar. As a matter of fact on the market now are any number of soft drinks or bases for soft drinks that have no sugar and sugar is added to suit the taste of the consumer. Some examples are 'Kool-Aid,' 'Miracleaid,' and Collins 'Penny Drink,' and many prepared foods contain chemicals and artificial food coloring that are non-nutritious. Some people prefer to omit sugar because it does build calories.

"While evidence may be available that would substantiate the government's position, here the testimony indicating that there was an expected standard

for soft drinks based only on sugar was not convincing.

"In the first place the disputed product is in fact not a 'soft drink' or 'soda water' as commonly known but is marketed solely as a base for a drink. But accepting as a fact that this is a distinction without a difference, we believe that some of the witnesses here were influenced because of their own vocation or business and the housewife who testified, was talking about a syrup—not a tablet. She said she gave her children sweetened carbonated drinks instead of milk 'to give them a lift' and had never heard of Quenchies, club soda, or any carbonated drink that wasn't sweetened. She added that when she said 'sweetened' she expected sugar. We wouldn't want to condemn an entire industry on that type of testimony. In addition what is recognized in one city in Ohio might not be that of the industry in general.

"However, there is an objection to the continued sale of the product sought to be condemned. This relates to the labeling which in our opinion, is not

sufficient. Sec. 403 of the act states:

A food shall be deemed to be misbranded—

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: * * *

"As held we do not believe on the record in this case that it has been proved that the addition of saccharin as sugar makes it adulterated or satisfies the decisions of some courts which hold that the government may prove any such standardization by the opinion of what the consumer expects. But the label amounts to a misbranding. If saccharin is to be used it should be so stated in sufficient sized type so that it may be read as easily as other parts of the label. Here the printed word 'saccharin' is so small that one is unable to read it without the aid of a magnifying glass. Section 403 (f) of the Act requires labeling

in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"Thus the generally recognized rule that no illegal substitution occurs where a replacement is made, in whole or in part, with another substance not injurious or deleterious to health, provided the name of the substance substituted appears on the label, governs in these proceedings. And we are not confusing adulteration with misbranding, United States v. 36 Drums of Pop'n Oil, supra.

"It is ordered therefore that the product seized be and the same is hereby

condemned for misbranding."

DISPOSITION: In accordance with the above opinion, the court, on October 2, 1952, found that the food was not adulterated but was misbranded within the meaning of Sections 403 (a), (f), and (k), and entered a decree providing for condemnation and destruction of the product.

18852. Adulteration of coffee concentrate. U. S. v. 25 Cases * * *. (F. D. C. No. 32685. Sample No. 35509-L.)

LIBEL FILED: February 20, 1952, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about October 22, 1951, from Dubuque, Iowa.

Product: 25 cases, each containing 24 6-ounce bottles, of coffee concentrate at Holmen, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. Examination disclosed that the product was undergoing progressive decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 8, 1952. Default decree of forfeiture and destruction.

18853. Misbranding of tea. U. S. v. 32 Cases * * *. (F. D. C. No. 32865. Sample No. 22226-L.)

LIBEL FILED: March 10, 1952, Northern District of Alabama.

ALLEGED SHIPMENT: On or about March 27, 1951, by American Tea & Coffee Co., Inc., from Nashville, Tenn.

PRODUCT: 32 cases, each containing 48 4-ounce packages, of tea at Florence,

LABEL, IN PART: "Net Weight 4 Ozs. American Ace Brand."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the packages contained less than the labeled 4 ounces.

DISPOSITION: April 24, 1952. American Tea & Coffee Co., Inc., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged to correct weight, under the supervision of the Food and Drug Administration.

CANDY, SIRUP, AND SUGAR

CANDY

18854. Adulteration of candy. U. S. v. Orville M. Griffin (Carmelita Candy Co.), and Tom E. McAdams. Pleas of guilty. Orville M. Griffin fined \$1,000; Tom E. McAdams fined \$50. (F. D. C. No. 32780. Sample Nos. 15622-L, 34132-L.)

INFORMATION FILED: May 15, 1952, Northern District of Oklahoma, against Orville M. Griffin, trading as the Carmelita Candy Co., Tulsa, Okla., and Tom E. McAdams, plant manager.

ALLEGED SHIPMENT: On or about October 25 and November 15, 1951, from the State of Oklahoma into the States of Missouri and Kansas.

Label, in Part: "Christmas Mix 30 Lbs." and "Milligan Leader Christmas Mix Packed For G. D. Milligan Wholesale Grocer Company."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 20, 1952. Pleas of guilty having been entered, the court fined Orville M. Griffin \$1,000 and Tom E. McAdams \$50.

18855. Adulteration of candy. U. S. v. 26 Boxes, etc. (F. D. C. No. 32556. Sample Nos. 25985–L to 25987–L, incl., 25989–L, 25990–L.)

LIBEL FILED: February 29, 1952, District of New Jersey.

Alleged Shipment: On or about February 6, 1952, by Luden's, Inc., from Reading, Pa.

PRODUCT: 140 boxes of candy at Trenton, N. J.

LABEL, IN PART: "Luden's Chocolate" and "Luden's Marshmallow Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 23, 1952. Default decree of condemnation and destruction.

18856. Adulteration of candy. U. S. v. 87 Boxes * * *. (F. D. C. No. 32872. Sample No. 21915–L.)

LIBEL FILED: March 13, 1952, Western District of Louisiana.

ALLEGED SHIPMENT: On or about February 7, 1952, by Martha Jane Candies, Inc., from Waco, Tex.

Product: Candy eggs. 87 boxes, each containing 120 candy eggs at Monroe, La.

LABEL, IN PART: "Martha Jane Delicious Candies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 22, 1952. Default decree of condemnation and destruction

SIRUP

18857. Adulteration and misbranding of sorghum sirup. U. S. v. 36 Pails, etc. (F. D. C. No. 32845. Sample No. 34227-L.)

LIBEL FILED: March 7, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about February 5, 1952, by J. E. Jones (Jones Sorghum Mill), from Conehatta, Miss.

PRODUCT: 36 ½-gallon pails and 94 1-gallon pails of sorghum sirup at Gibson, Tenn.

LABEL, IN PART: "Country Sorghum Best by Taste Test."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum.

Michael Section 402 (c) the label statement "Soughum" was falso

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to a mixture of sorghum, corn sirup, and sugar.

DISPOSITION: May 16, 1952. Default decree of condemnation. The court ordered that the product be donated to a charitable institution, for consumption by the inmates.

18858. Adulteration and misbranding of sorghum sirup. U. S. v. 82 Cans, etc. (F. D. C. No. 32843. Sample No. 34225-L.)

LIBEL FILED: March 7, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 4, 1952, by Buck Hillman, from Conehatta, Miss.

Product: 122 9½-pound cans of sorghum sirup at Greenfield, Tenn.

LABEL, IN PART: "Newton County Mississippi Honey Drip Sorghum Molasses."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum molasses.

Misbranding, Section 403 (a), the label statement "Sorghum Molasses" was false and misleading as applied to a mixture of sorghum, corn sirup, and sugar.

DISPOSITION: May 16, 1952. Default decree of condemnation. The court ordered that the product be donated to public institutions, for consumption by the inmates.

18859. Adulteration and misbranding of sorghum sirup. U. S. v. 82 Cans * * *. (F. D. C. No. 32875. Sample No. 34243-L.)

LIBEL FILED: March 17, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about February 5, 1952, by the Jones Sorghum Mill, from Conehatta, Miss.

PRODUCT: 82 1/2-gallon cans of sorghum sirup at Jackson, Tenn.

LABEL, IN PART: "Country Sorghum Best by Taste Test."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum. Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to a mixture of sorghum, corn sirup, and sugar.

DISPOSITION: May 1, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for consumption by the inmates.

SUGAR

- 18860. Adulteration of sugar. U. S. v. Ralph M. Friedman (Ralph Friedman Co. and Railroad Salvage Warehouse Co.). Plea of guilty. Fine of \$250, plus costs. (F. D. C. No. 31301. Sample No. 32178-L.)
- INFORMATION FILED: February 12, 1952, Eastern District of Missouri, against Ralph M. Friedman, trading as the Ralph Friedman Co. and the Railroad Salvage Warehouse Co., St. Louis, Mo.
- INTERSTATE SHIPMENT: Prior to March 30, 1951, a quantity of sugar was shipped in interstate commerce into the State of Missouri.
- ALLEGED VIOLATION: On or about March 30, 1951, while the sugar was being held for sale after shipment in interstate commerce, the defendant caused it to be held in a room containing rodent, bird, and insect filth, and nondescript dirt, which act of the defendant resulted in the sugar becoming adulterated.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: March 24, 1952. A plea of guilty having been entered, the court fined the defendant \$250, plus costs.
- 18861. Adulteration of sugar. U. S. v. Baltimore & Ohio Railroad Co. Plea of guilty. Fine of \$1,200, plus costs. (F. D. C. No. 31249. Sample Nos. 40499–K, 66964–K, 3428–L to 3430–L, incl., 3829–L, 3830–L, 4254–L, 4255–L.)
- Information Filed: March 17, 1952, District of Maryland, against the Baltimore & Ohio Railroad Co., a corporation, Baltimore, Md.
- ALLEGED SHIPMENT: Between the approximate dates of February 6, 1950, and May 15, 1951, from Cuba, into the State of Maryland.
- RESULTS OF INVESTIGATION: While the product was held for sale after shipment in interstate commerce, the defendant caused a number of boxes of the food to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the contamination of the food with rodent excreta and rodent urine, bird excreta, and cat fecal matter; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: May 16, 1952. A plea of guilty having been entered, the court fined the defendant \$1,200, plus costs.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

- 18862. Adulteration and misbranding of bread, cookies, and Boston cream pie. U. S. v. Conrad A. Bower (Conrad's Bakery). Plea of guilty. Fine of \$150, plus costs. (F. D. C. No. 32787. Sample Nos. 9935-L, 9937-L, 9938-L, 9942-L, 9943-L.)
- Information Filed: June 2, 1952, Northern District of Indiana, against Conrad A. Bower, trading as Conrad's Bakery, at Fowler, Ind.

ALLEGED SHIPMENT: On or about December 4, 1951, from the State of Indiana into the State of Illinois.

LABEL, IN PART: (Portions) "Enriched Butter Krust Bread [or "Enriched Potato Bread"] Conrad's Bakery—Fowler, Indiana." The remaining products were unlabeled.

Nature of Charge: Enriched Butter Krust bread. Adulteration, Section 402 (b) (1), valuable constituents of the article had been in part omitted and abstracted therefrom since one-half pound of the article was represented to supply 55 percent of the minimum daily requirements for vitamin B₁, 17.5 percent of the minimum daily requirements for vitamin B₂, and 40 percent of the minimum daily requirements for iron, whereas the article would supply less than the stated proportions of the minimum daily requirements for vitamin B₁, vitamin B₂, and iron. Misbranding, Section 403 (a), the statement, "One half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirements for these essential food substances: Thiamine (Vitamin B₁) 55%; Riboflavin (Vitamin B₂) 17.5% * * * Iron 40%," borne on the label, was false and misleading. Fruit-nut cookies, oatmeal cookies, Boston cream pie, and potato bread. Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent

hairs.

All products. Adulteration, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become

DISPOSITION: September 11, 1952. A plea of guilty having been entered, the court imposed a fine of \$150, plus costs.

FLOUR

18863. Adulteration of flour. U. S. v. Henry Pollack (Klein's Bakery), and Edward Perlis. Pleas of nolo contendere. Henry Pollack fined \$200; Edward Perlis fined \$50. (F. D. C. No. 31541. Sample No. 24774-L.)

Information Filed: October 22, 1951, Eastern District of Pennsylvania, against Henry Pollack, trading as Klein's Bakery, and Edward Perlis, an employee of the firm.

INTERSTATE SHIPMENT: On or about April 5, 1951, from Hastings, Minn., into the State of Pennsylvania, of a quantity of flour.

Alleged Violation: Within the period from on or about April 20 to May 17, 1951, while the flour was being held for sale after shipment in interstate commerce, the defendants caused a quantity of the flour to be exposed to contamination by rodents, which act resulted in the product being adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 27, 1951. Pleas of nolo contendere having been entered, the court fined Henry Pollack \$200 and Edward Perlis \$50.

contaminated with filth.

18864. Adulteration of flour. U. S. v. 75 Bags, etc. (F. D. C. No. 32049. Sample Nos. 31135-L to 31138-L, incl.)

LIBEL FILED: October 29, 1951, Western District of Tennessee.

ALLEGED SHIPMENT: Between the approximate dates of February 16 and June 12, 1951, from Shawnee, Okla.

PRODUCT: Flour. 261 50-pound bags and 244 25-pound bags at Memphis, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 27, 1951. The Shawnee Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured and used for hog feed, under the supervision of the Food and Drug Administration.

18865. Adulteration of flour. U. S. v. 57 Bags * * *. (F. D. C. No. 32662. Sample No. 39700-L.)

LIBEL FILED: February 11, 1952, Southern District of California.

Alleged Shipment: On or about December 8, 1951, from Seattle, Wash.

PRODUCT: 57 100-pound bags of flour at San Luis Obispo, Calif., in possession of the San Luis Feed Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 17, 1952. The Fisher Flouring Mills Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

18866. Adulteration of flour and rice. U. S. v. 11 Bags, etc. (F. D. C. No. 32675. Sample Nos. 35453–L, 35455–L.)

LIBEL FILED: February 18, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: The rice was shipped on or about August 31, 1951, from Stuttgart, Ark., and the flour was shipped on or about January 14, 1952, from Omaha, Nebr.

PRODUCT: 11 50-pound bags of flour and 18 25-pound bags of rice at Des Moines, Iowa, in possession of Western Grocer.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 19, 1952. Default decree of condemnation and destruction.

MISCELLANEOUS CEREAL*

- 18867. Adulteration of buckwheat groats. U. S. v. 30 Bags * * * *. (F. D. C. No. 32228. Sample No. 23948-L.)
- LIBEL FILED: December 10, 1951, Southern District of New York.
- ALLEGED SHIPMENT: On or about October 4, 1951, from Chicago, Ill.
- PRODUCT: 30 100-pound bags of buckwheat groats_at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: January 14, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as hog feed.

DAIRY PRODUCTS

BUTTER

- 18868. Adulteration of butter. U. S. v. Loren C. Ellis (Paola Butter Co.). Plea of guilty. Fine of \$400, plus costs. (F. D. C. No. 32791. Sample Nos. 9439-L, 33067-L to 33070-L, incl.)
- INFORMATION FILED: July 22, 1952, District of Kansas, against Loren C. Ellis, trading as the Paola Butter Co., Paola, Kans.
- ALLEGED SHIPMENT: On or about September 19 and October 3, 1951, from the State of Kansas into the State of Illinois.
- LABEL, IN PART: "Armour Cloverbloom Butter [or "Spring Brook Brand"]
 Armour Creameries Chicago, Ill."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: October 9, 1952. A plea of guilty having been entered, the court fined the defendant \$400, plus costs.
- 18869. Adulteration of butter. U. S. v. Kyle Creamery Assn. and Clarence Cleeter. Pleas of guilty. Total fine of \$250, plus costs. (F. D. C. No. 31561. Sample Nos. 11308-L to 11310-L, incl., 11348-L to 11350-L, incl., 12220-L to 12223-L, incl.)
- Information Filed: December 20, 1951, Southern District of Indiana, against the Kyle Creamery Assn., a corporation, Aurora, Ind., and Clarence Cleeter, president and manager.
- ALLEGED SHIPMENT: Between the approximate dates of June 19 and August 6, 1951, from the State of Indiana into the State of Ohio.
- LABEL, IN PART: (Wrapper) "Creamery Butter J. T. Ruther & Sons Cincinnati, Ohio Distributors," "Meyer & Ruther Dairy Butter," or "Our Premier."
- N'ATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of insect, fly, and manure fragments, rodent hairs, feather fragments, and ants, and, in addition, 2 shipments consisted in part of a decomposed substance since the product was made from

^{*}See also No. 18866.

decomposed cream; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 18, 1952. Pleas of guilty having been entered, the court fined each defendant \$125, plus costs.

CHEESE

18870. Adulteration and misbranding of process cheese. U. S. v. 40 Cartons, etc. (and 1 other seizure action). (F. D. C. Nos. 32521, 32522. Sample Nos. 13786-L, 13787-L, 13789-L.)

LIBELS FILED: February 15, 1952, Northern District of California.

ALLEGED SHIPMENT: On or about January 25, 1952, by the Challenge Cream & Butter Assn., from Pocatello, Idaho.

PRODUCT: Process cheese. 80 cartons, each containing 48 ½-pound packages, at San Francisco, Calif., and 105 cartons, each containing 48 ½-pound packages, at Berkeley, Calif.

LABEL, IN PART: "Challenge Pasteurized Process American Cheese [or "Pimento Cheese" or "Swiss and Cheddar Cheese"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the articles contained an added poisonous and deleterious substance, dehydroacetic acid, which is unsafe within the meaning of Section 406 since it is a substance not required in the production of the articles and can be avoided by good manufacturing practice.

Misbranding, Section 403 (g) (1), the articles purported to be and were represented as cheeses for which definitions and standards of identity have been prescribed by the regulations, and they failed to conform to such definitions and standards since they contained dehydroacetic acid, which is not permitted as an ingredient by the regulations.

DISPOSITION: August 14, 1952. Default decrees of condemnation and destruction.

MISCELLANEOUS DAIRY PRODUCT

18871. Adulteration and misbranding of nonfat dry milk solids. U. S. v. 14 Drums * * *. (F. D. C. No. 32871. Sample No. 34606-L.)

LIBEL FILED: March 12, 1952, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about February 5, 1952, by the Pevely Dairy Co., from St. Louis, Mo.

PRODUCT: 14 200-pound drums of nonfat dry milk solids at East St. Louis, Ill. LABEL, IN PART: "Pevely Roller Process Super Test Non-fat Dry Milk Solids."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an article prepared from sour milk had been substituted in whole or in part for nonfat dry milk solids. Misbranding, Section 403 (a), the label statement "Non-fat Dry Milk Solids" was false and misleading as applied to the article, which was prepared from sour milk.

Disposition: May 21, 1952. Default decree of condemnation. The court ordered that the product be sold for use other than for human consumption. The product subsequently was sold for use as animal feed.

FEEDS AND GRAINS

18872. Adulteration and misbranding of lespedeza screenings. U. S. v. 1,200 Bags * * * *. (F. D. C. No. 33618. Sample No. 53129-L.)

LIBEL FILED: On or about August 4, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about January 14, 1952, by Frazier Seed Co., Inc., from Coffeyville, Kans.

PRODUCT: 1,200 unlabeled bags of a product invoiced as "Unground Lespedeza Screenings" at Marshfield, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), grain sweepings and dirt had been substituted in whole or in part for lespedeza screenings. (Examination showed that the article was a mixture of lespedeza seeds, sorghum, oats, weed seeds, chaff, stems, and dirt.)

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, unground lespedeza screenings; Sections 403 (e) (1) and (2), it was food in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: October 8, 1952. Default decree of condemnation and destruction.

18873. Adulteration and misbranding of soybean oil meal. U. S. v. 450 Sacks * * *. Consent decree of condemnation; product ordered released under bond. Motion by Government to forfeit bond for failure to comply with conditions of decree; Government's motion dismissed upon payment of \$2,500 by claimant. (F. D. C. No. 30999. Sample No. 16180-L.)

LIBEL FILED: On or about July 9, 1951, Western District of Missouri.

ALLEGED SHIPMENT: On or about March 3, 1951, by the Eureka Milling Co., from Roanoke, Ill.

Product: 450 sacks, each containing 100 pounds, of soybean oil meal at Lee's Summit, Mo.

LABEL, IN PART: "Emco 41 Percent Protein Soybean Oil Meal."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an article containing added calcium carbonate had been substituted in whole or in part for soybean oil meal.

Misbranding, Section 403 (a), the name "Soybean Oil Meal" borne on the label was false and misleading as applied to an article containing added calcium carbonate; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since calcium carbonate present in the product was not declared on the label.

DISPOSITION: On August 24, 1951, the Eureka Milling Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned

that it be destroyed or brought into compliance with the law, under the supervision of the Federal Security Agency.

On March 24, 1952, the Government filed a motion for the entry of an order forfeiting the bond on the grounds that the claimant had not complied with the provisions of the decree. On September 9, 1952, on motion of the Government, the court ordered that the Government's motion to forfeit the bond be dismissed. On September 11, 1952, the court having found that 71 sacks of the product had been brought into full compliance with the law and that the claimant had paid the sum of \$2,500 to the Government for the release of the remainder of the product, the claimant and surety were released of all liability under the bond, and it was canceled.

FISH AND SHELLFISH

18874. Adulteration of ocean perch fillets. U. S. v. 31 Cartons * * *. (F. D. C. No. 32831. Sample No. 48571–L.)

Libel Filed: March 1, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about January 25, 1952, by Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.

PRODUCT: 31 cartons, each containing 10 5-pound packages, of ocean perch fillets at Moorhead, Minn.

LABEL, IN PART: "Gorton's of Gloucester Ocean Perch."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: April 22, 1952. Default decree of condemnation. The court ordered that the product be denatured for use as animal feed.

18875. Adulteration and misbranding of canned herring roe and misbranding of canned tuna. U. S. v. Cape King Fisheries, Inc., and Fred Roberts. Pleas of guilty. Corporation fined \$400; individual defendant fined \$100. (F. D. C. No. 32781. Sample Nos. 3148-L to 3150-L, incl., 4360-L, 4362-L, 4367-L, 4512-L.)

INFORMATION FILED: August 11, 1952, District of Massachusetts, against Cape King Fisheries, Inc., New Bedford, Mass., and Fred Roberts.

ALLEGED SHIPMENT: Between the approximate dates of June 22 and September 25, 1951, from the State of Massachusetts into the District of Columbia and the State of Maryland.

LABEL, IN PART: "Cape King * * * light meat Tuna Contents 13 Oz. [or "13½ Oz."] Avd." and "Cape King Herring Roe Contents 15 Oz. Avd."

NATURE OF CHARGE: Herring roe. Adulteration, Section 402 (b) (2), fish roe other than herring roe had been substituted for herring roe, which the food was represented to be. Misbranding, Section 403 (a), the statement "Herring Roe" on the label was false and misleading.

Tuna. Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans contained less than the labeled amounts).

DISPOSITION: September 15, 1952. Pleas of guilty having been entered, the court fined the corporation \$400 and the individual defendant \$100.

18876. Adulteration and misbranding of oysters. U. S. v. 234 Cans * * *. (F. D. C. No. 32090. Sample No. 2992-L.)

LIBEL FILED: November 16, 1951, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about November 5, 1951, by Irvington Fish Oyster Co., Inc., from Irvington, Va.

Product: 234 cans, each containing 1 pint, of oysters at Knoxville, Tenn.

LABEL, IN PART: "Oysters Selects King Carter Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters selects since it was not thoroughly drained.

DISPOSITION: December 20, 1951. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

18877. Adulteration of canned maraschino cherries. U. S. v. 30 Cases, etc. (F. D. C. No. 32682. Sample Nos. 10826-L, 10828-L, 10829-L.)

LIBEL FILED: February 20, 1952, Southern District of Indiana.

ALLEGED SHIPMENT: On or about January 21, 1952, by the International Fruit Products Co., from Cincinnati, Ohio.

PRODUCT: Maraschino cherries. 30 cases, each containing 6 ½-gallon jars, 50 cases, each containing 24 3-ounce jars, and 25 cases, each containing 24 8-ounce jars, at Indianapolis, Ind.

LABEL, IN PART: "Ko-We-Ba Maraschino Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and maggots and maggot parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: June 6, 1952. Default decree of forfeiture and destruction.

18878. Adulteration of canned dates. U. S. v. 10 Cases * * *. (F. D. C. No. 32842. Sample No. 48351-L.)

LIBEL FILED: March 4, 1952, Southern District of Iowa.

Alleged Shipment: On or about March 15, 1948, from Pasadena, Calif.

Product: 10 cases, each containing 24 S-ounce cans, of dates at Keokuk, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed dates. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 11, 1952. Default decree of condemnation and destruction.

- 18879. Misbranding of canned peaches. U. S. v. 43 Cases * * *. (F. D. C. No. 32663. Sample No. 12588–L.)
- LIBEL FILED: February 12, 1952, Middle District of Tennessee.
- ALLEGED SHIPMENT: On or about February 28, 1951, by the Turlock Cooperative Growers, from Modesto, Calif.
- Product: 43 cases, each containing 6 6-pound, 8-ounce cans, of peaches at Nashville, Tenn.
- LABEL, IN PART: "Garden Preheated Solid Pack Pie Yellow Cling Peaches Net Weight 6 lbs. 8 oz."
- NATURE OF CHARGE: Misbranding. The cans contained less than the labeled 6 pounds, 8 ounces, of peaches.
- DISPOSITION: March 25, 1952. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

DRIED FRUIT

- 18880. Adulteration of dried pears and dried mixed fruit. U. S. v. 48 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 33062, 33063. Sample Nos. 33339-L, 33340-L.)
- Libels Filed: April 10, 1952, Eastern District of Wisconsin.
- ALLEGED SHIPMENT: On or about February 12 and 26, 1952, by Rosenberg Bros. & Co., Inc., from Santa Clara, Calif.
- PRODUCT: 48 cases, each containing 24 12-ounce packages, of dried pears, and 31 cases, each containing 24 1-pound packages, of dried mixed fruit at Milwaukee, Wis.
- LABEL, IN PART: "Golden Bloom California Dried Fruits Fancy Pears" and "IGA Brand California Dried Fruits Fancy Mixed Fruits."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects and insect excreta, in the dried pears, and insects, insect excreta, and rodent excreta, in the dried mixed fruit; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.
- DISPOSITION: May 19, 1952. Default decrees of condemnation and destruction.
- 18881. Adulteration of prunes. U. S. v. 34 Cases * * *. (F. D. C. No. 33049. Sample No. 48407–L.)
- LIBEL FILED: April 8, 1952, Northern District of Iowa.
- Alleged Shipment: On or about March 29, 1951, from San Francisco, Calif.
- PRODUCT: 34 cases, each containing 24 2-pound bags, of prunes at Cedar Rapids, Iowa.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy prunes. The product was adulterated while held for sale after shipment in interstate commerce.
- Disposition: May 9, 1952. Default decree of condemnation and destruction.

VEGETABLES

18882. Adulteration of mung beans. U. S. v. 240 Bags * * *. (F. D. C. No. 32868. Sample No. 27442-L.)

LIBEL FILED: March 12, 1952, Northern District of California.

ALLEGED SHIPMENT: On or about December 15, 1951, from Vernon, Tex.

Product: 240 100-pound bags of mung beans at Oakland, Calif., in possession of the Nanking Noodle Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: April 18, 1952. The Nanking Noodle Factory, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the unfit portion of the beans be segregated for use as animal feed, or seed, under the supervision of the Food and Drug Administration. Of the 20,000 pounds which were seized, 16,550 pounds were salvaged and 3,450 pounds were destroyed.

18883. Adulteration of canned kale. U. S. v. 24 Cases, etc. (F. D. C. No. 32864. Sample Nos. 34608-L, 34609-L.)

LIBEL FILED: March 11, 1952, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 18, 1951, by the Alma Canning Co., from Alma, Ark.

Product: Kale. 24 cases, each containing 6 unlabeled No. 10 cans, and 1 case, containing 24 1-pound cans, at St. Louis, Mo.

Label, in Part: (Portion) "American Lady Kale."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: April 7, 1952. Default decree of condemnation and destruction.

18884. Misbranding of canned peas. U. S. v. 128 Cases * * *. (F. D. C. No. 33389. Sample No. 14990-L.)

LIBEL FILED: June 20, 1952, District of Nebraska.

ALLEGED SHIPMENT: On or about April 3, 1952, by the Fresh Canning Co., from Spiro, Okla.

PRODUCT: 128 cases, each containing 48 15-ounce cans, of peas at Hastings, Nebr.

Label, in Part: (Can) "Baby Shug Alaska Variety Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peas, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the optional pea ingredient present in the article since the definition and standard provides that the label for canned peas shall name the optional pea ingredient in the article by use of the words "Dried Early," "Dried June," or "Dried Early June," and that such words shall immediately and conspicuously precede or follow the name of the optional pea ingredient present in the article, without intervening written, printed, or graphic matter.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas because of high alcohol-insoluble solids, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: July 24, 1952. The Fresh Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

TOMATOES AND TOMATO PRODUCTS

18885. Adulteration of canned tomatoes. U. S. v. 196 Cases * * *. (F. D. C. No. 32873. Sample No. 22280–L.)

LIBEL FILED: March 13, 1952, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 28, 1951, from Naples, Italy.

PRODUCT: 196 cases, each containing 48 1-pound, 1-ounce cans, of tomatoes at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. Examination showed that it was undergoing progressive decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 15, 1952. Default decree of condemnation and destruction.

18886. Misbranding of canned tomatoes. U. S. v. 526 Cases * * *. (F. D. C. No. 33006. Sample Nos. 1790–L, 2391–L, 2392–L.)

LIBEL FILED: April 10, 1952, Northern District of Georgia.

ALLEGED SHIPMENT: On or about October 16 and 25, 1951, and February 1, 1952, by R. I. Lednum & Co., from Pocomoke, Md.

Product: 526 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at Atlanta, Ga.

LABEL, IN PART: (Can) "Tulip Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: May 22, 1952. R. I. Lednum & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

18887. Adulteration of tomato catsup. U. S. v. 825 Cases * * *. (F. D. C. No. 32949. Sample No. 17991–L.)

LIBEL FILED: March 14, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about February 12, 1952, by J. R. Barry & Co., from Los Angeles, Calif.

PRODUCT: 825 cases, each containing 24 14-ounce bottles, of tomato catsup at Carlstadt, N. J.

LABEL, IN PART: "Fresh Pak Brand Tomato Catsup."

- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION: July 15, 1952. Consent decree of condemnation and destruction.
- 18888. Adulteration of tomato juice. U. S. v. 9 Cases * * *. (F. D. C. No. 33096. Sample No. 22494–L.)
- LIBEL FILED: April 24, 1952, Western District of Texas.
- ALLEGED SHIPMENT: On or about September 17, 1951, by the Bercut-Richards Packing Co., from Sacramento, Calif.
- PRODUCT: 9 cases, each containing 48 5½-ounce cans, of tomato juice at San Antonio, Tex.
- LABEL, IN PART: "Sacramento Brand California Tomato Juice."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.
- DISPOSITION: June 4, 1952. Default decree of forfeiture and destruction.

OILS AND FATS

- 18889. Adulteration and misbranding of table and cooking oil. U. S. v. 20 Cases * * *. (F. D. C. No. 32627. Sample No. 15724-L.)
- LIBEL FILED: On or about January 28, 1952, Western District of Missouri.
- ALLEGED SHIPMENT: On or about December 12, 1951, by the Chicago Macaroni Co., from Chicago, Ill.
- PRODUCT: 20 cases, each containing 6 1-gallon cans, of table and cooking oil at Kansas City, Mo.
- LABEL, IN PART: "Italy Brand Table Oil Blend An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Imported Olive Oil."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), cottonseed oil with little or no olive oil had been substituted for a blend of 80 percent corn oil and 20 percent olive oil.
 - Misbranding, Section 403 (a), the label statement "An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Imported Olive Oil" was false and misleading.
- Disposition: April 25, 1952. A default decree was entered, and the court ordered that the product be delivered to charitable institutions.
- 18890. Adulteration and misbranding of table and cooking oil. U. S. v. 20 Cases * * *. (F. D. C. No. 32640. Sample No. 35503-L.)
- LIBEL FILED: February 1, 1952, District of Minnesota.
- ALLEGED SHIPMENT: On or about October 26, 1951, by the Chicago Macaroni Co., from Chicago, Ill.
- PRODUCT: 20 cases, each containing 6 1-gallon cans, of table and cooking oil at St. Paul, Minn.
- LABEL, IN PART: "Italy Brand Table Oil Blend An Excellent Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Pure Olive Oil."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted from the product; and, Section 402 (b) (2), oil in the nature of corn oil containing little or no olive oil had

been substituted for a blend of 80 percent corn oil and 20 percent pure olive oil. Misbranding, Section 403 (a), the label designation "Twenty Per Cent of Pure Olive Oil" was false and misleading.

DISPOSITION: April 9, 1952. A default decree was entered, and the court ordered that the product be delivered to charitable institutions or be destroyed.

18891. Adulteration and misbranding of olive oil and table and cooking oil. U. S. v. 58 Cans, etc. (F. D. C. No. 32544. Sample Nos. 14772–L, 14773–L, 14776–L, 14777–L.)

LIBEL FILED: On or about February 27, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about November 13, 1951, by the Chicago Macaroni Co., from Chicago, Ill.

PRODUCT: 58 1-gallon cans of olive oil and 40 1-gallon cans of table and cooking oil at Kansas City, Mo.

LABEL, IN PART: "Extra Cyrilla 1-Gallon Virgin Imported Pure Olive Oil" or "One Gallon Italy Brand Table Oil Blend An Excellent composition of eighty per cent of corn oil and twenty per cent of imported olive oil."

NATURE OF CHARGE: Table and cooking oil. Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted; and, Section 402 (b) (2), a mixture of corn oil and cottonseed oil with little or no olive oil had been substituted in whole or in part for a blend of 80 percent corn oil and 20 percent olive oil. Misbranding, Section 403 (a), the label designation "twenty per cent of imported olive oil" was false and misleading since the product contained little or no olive oil.

Olive oil and table and cooking oil. Misbranding, Section 403 (e) (2), the products failed to bear labels containing accurate statements of the quantity of the contents. (The cans were short of the declared volume.)

DISPOSITION: April 2, 1952. A default decree was entered, and the court ordered that the products be delivered to an institution for the aged.

18892. Adulteration and misbranding of table and cooking oil. U. S. v. 24 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 32827, 32891. Sample Nos. 35451-L, 35462-L.)

LIBELS FILED: February 27 and March 18, 1952, Southern District of Iowa.

Alleged Shipment: On or about February 26, 1951, and January 22, 1952, from Chicago, Ill.

PRODUCT: 27 cases, each containing 6 1-gallon cans, of table and cooking oil at Des Moines, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a vegetable oil containing little or no olive oil had been substituted for a blend of 80 percent vegetable oil and 20 percent pure olive oil, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "20 Percent of Pure Virgin Olive Oil" was false and misleading as applied to the article, which contained little or no olive oil.

The article was alleged to be adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: June 11, 1952. The Western Food Corp., Chicago, Ill., having filed an answer denying that the product was adulterated or misbranded and having subsequently withdrawn its answer, judgment of condemnation was entered and the court ordered that the product be destroyed.

POULTRY

18893. Adulteration of dressed poultry. U. S. v. 9 Crates * * *. (F. D. C. No. 32540. Sample No. 38334–L.)

LIBEL FILED: February 25, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about February 6, 1952, by Showell Poultry, Inc., from Showell, Md.

Product: 9 crates, each containing 72 pounds, of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

Disposition: April 21, 1952. Showell Poultry, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of salvaging the fit portion, under the supervision of the Federal Security Agency. The claimant subsequently indicated that it was not interested in salvaging but merely wished to observe the condition and quality of the birds. The product, accordingly, was examined by representatives of the claimant and the Food and Drug Administration, after which it was denatured for conversion into inedible grease, with the exception of 16 birds which were delivered to the Food and Drug Administration.

18894. Adulteration of dressed poultry. U. S. v. 7 Crates * * *. (F. D. C. No. 32839. Sample No. 38800-L.)

LIBEL FILED: On or about March 8, 1952, Western District of Virginia.

ALLEGED SHIPMENT: On or about February 20, 1952, by the W. U. Laws Poultry Co., from Roxboro, N. C.

PRODUCT: 7 crates, each containing 60 pounds, of dressed poultry at Danville, Va.

LABEL, IN PART: "Piggly Wiggly."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of chickens which were contaminated with fecal matter and crop material; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 23, 1952. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

18895. Adulteration of capsicum. U. S. v. 18,621 Pounds, etc. (F. D. C. No. 32487. Sample No. 38361–L.)

LIBEL FILED: February 5, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about June 2, 1950, from Liverpool, England.

PRODUCT: 18,621 pounds of capsicum in 307 bags and approximately 2,379 pounds of ground capsicum in bulk at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 25, 1952. William Burford, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be salvaged by fumigating, cutting, brushing, sifting, and blowing, or similar procedure, so as to eliminate and destroy the objectionable portion. Salvage operations resulted in the release of 14,135 pounds of the product as good.

18896. Adulteration and misbranding of black pepper. U. S. v. 10 Cases * * *. (F. D. C. No. 32606. Sample No. 22432-L.)

LIBEL FILED: January 21, 1952, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 9, 1951, by the Arrow Spice & Food Co., from Dallas, Tex.

PRODUCT: 10 cases, each containing 24 packages, of black pepper at Plaquemine, La.

LABEL, IN PART: "Arrow Brand Net Wt. 1 Oz. Pure Ground Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of black pepper, cottonseed hulls, salt, and capsicum had been substituted for pure black pepper; and, Section 402 (b) (4), cottonseed hulls, salt, and capsicum had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (a), the label designation "Pure * * * Black Pepper" was false and misleading.

DISPOSITION: March 21, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18897. Adulteration of dried chili peppers. U. S. v. 9 Cartons * * *. (F. D. C. No. 32666. Sample No. 17990–L.)

Libel Filed: February 12, 1952, Southern District of California.

Alleged Shipment: On or about December 20, 1951, by Theodore Ramirez, from Douglas, Ariz.

Product: 9 26-pound cartons of dried chili peppers at Long Beach, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy peppers.

DISPOSITION: March 7, 1952. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

18898. Adulteration and misbranding of D-Kal-Fer vitamin D tablets. U. S. v. 5 Bottles * * *. (F. D. C. No. 31065. Sample No. 11271-L.)

LIBEL FILED: April 23, 1951, Southern District of Ohio.

Alleged Shipment: On or about February 8, 1951, from Indianapolis, Ind.

Label, in Part: "1000 Tablets S. C. Yellow D-Kal-Fer Each Tablet Contains * * * Vitamin 'D' 350 I. U."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article. (The article contained less than 50 percent of the declared vitamin D content.)

Misbranding, Section 403 (a), the label statements "Each Tablet Contains * * * Vitamin 'D' 350 I. U. Six Tablets Per Day Supplies * * * 5.10 Times the M. D. R. of Vitamin D" were false and misleading.

The product was adulterated and misbranded while held for sale after shipment in interstate commerce. It was shipped in bulk and was repackaged and relabeled by the consignee.

DISPOSITION: June 4, 1951. Default decree of condemnation and destruction.

18899. Adulteration and misbranding of White's Multi-Vi Liquid. U. S. v. 23 Bottles, etc. (F. D. C. No. 32829. Sample No. 48305-L.)

LIBEL FILED: February 29, 1952, District of South Dakota.

Alleged Shipment: On or about April 1, 1948, from Newark, N. J.

Product: White's Multi-Vi Liquid. 23 bottles, each containing 10 cc., and 48 bottles, each containing 30 cc. at Sioux Falls, S. Dak.

Label, in Part: "White's Multi-Vi Liquid Multiple Vitamin Solution * * *

Each 0.6 CC Contains * * * Ascorbic Acid 50 Mg."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, ascorbic acid (vitamin C), had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each 0.6 CC Contains * * * Ascorbic Acid 50 Mg." was false and misleading.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce. Analysis disclosed that the article contained approximately 50 percent of the declared amount of ascorbic acid.

DISPOSITION: April 1, 1952. Default decree of condemnation and destruction.

18900. Misbranding of concentrated extract of alfalfa. U. S. v. 6 Bottles, etc. (F. D. C. No. 33288. Sample No. 27976-L.)

LIBEL FILED: June 17, 1952, Northern District of California.

ALLEGED SHIPMENT: On or about November 1, 1951, and May 2, 1952, by the Lucerne Laboratories of Utah, from American Fork, Utah.

PRODUCT: 6 1-quart bottles, 10 1-pint bottles, and 28 8-ounce bottles of concentrated extract of alfalfa at San Francisco, Calif. Examination showed that the product was a mixture of reducing sugars, citric acid, and a small quantity of plant extractions from roasted alfalfa.

LABEL, IN PART: (Bottle) "Lucerne Concentrated extract of Alfalfa with active principle of vitamin B₁₂ added. * * * It is a Beverage Food Supplement * * * It furnishes minerals contained in Alfalfa * * * May Help to relieve fatigue."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements on the label of the article and in an accompanying circular entitled "Lucerne (Lucerne is the Old World name for Alfalfa)" were false and misleading since the article supplied no demonstrable amount of vitamin B₁₂ and was not effective for the purposes, diseases, and conditions stated and implied: (Bottle

label) "* * * Concentrated extract of Alfalfa with active principle of vita- $\min \ B_{12} \ added * * * May \ Help to relieve fatigue" and (circular) "* * *$ Concentrated extract of Alfalfa with the active principle of vitamin B₁₂ * * * may act as an antifatigue, and as an analgesic. It may calm the nervous system and thus enable All-Wise Nature to aid in relief from such conditions as Rheumatism, Arthritis, Neurasthenia, Exhaustion and General Debility."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its mineral content, and its label failed to bear, as required by the regulations, the names of the specific minerals and a statement of the proportion of the minimum daily requirements of each such mineral furnished by a specified quantity of the article when consumed during the period of one day.

The article was alleged to be misbranded also under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3812.

DISPOSITION: September 10, 1952. Default decree of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 18851 TO 18900

PRODUCTS

PRODUCTS			
N. J. No.	N. J. No.		
Alfalfa, concentrated extract of 18900	Fruits and vegetables 18877–18888		
Bakery products 18862	fruit, canned 18877–18879		
Beans, mung 18882	dried 18880, 18881		
Beverages and beverage mate-	tomatoes and tomato prod-		
rials ¹ 18851-18853, 18888	ucts 18885–18888		
Boston cream pie 18862	vegetables 18882–18884		
Bread 18862	Grains. See Feeds and grains.		
Buckwheat groats 18867	Groats, buckwheat 18867		
Butter 18868, 18869	Herring roe, canned 18875		
Candy 18854-18856	Kale, canned 18883		
Capsicum 18895	Lespedeza screenings 18872		
Catsup, tomato 18887	Maraschino cherries, canned 18877		
Cereals and cereal prod-	Milk, nonfat dry, solids 18871		
ucts 18862–18867	Multi-Vi Liquid, White's 18899		
Cheese, process 18870	Mung beans 18882		
Cherries, maraschino, canned 18877	Oils and fats 18889-18892		
Chili peppers, dried 18897	Olive oil 18891		
Coffee concentrate 18852	Oysters 18876		
Cookies 18862	Peaches, canned 18879		
Dairy products 18868–18871	Pears, dried 18880		
Dates, canned 18878	Peas, canned 18884		
D-Kal-Fer vitamin D tablets 18898	Pepper, black 18896		
Fats. See Oils and fats.	Peppers, chili, dried 18897		
Feeds and grains 18872, 18873	Perch fillets 18874		
Fish and shellfish 18874-18876	Pie, Boston cream 18862		
Flavors. See Spices, flavors, and	Poultry, dressed 18893, 18894		
seasoning materials.	Prunes 18881		
Flour 18863-18866	Quenchies 18851		

¹ (18851) Seizure contested. Contains opinion of the court.

N. J. No.	N. J. No.
Rice 18866	Tomato(es), canned 18885, 18886
Roe, herring, canned 18875	catsup 18887
Shellfish. See Fish and shellfish.	juice 18888
Sirup, sorghum 18857–18859	Tuna, canned 18875
Sorghum sirup 18857–18859	Vegetables. See Fruits and
Soybean oil meal 18873	vegetables.
Spices, flavors, and seasoning	Vitamin, mineral, and other
materials 18895–18897	
Sugar 18860, 18861	significance 18898–18900
	White's Multi-Vi Liquid 18899
A	
SHIPPERS, MANUFACTUR	EERS, AND DISTRIBUTORS
N. J. No.	N. J. No.
Alma Canning Co.: canned kale 18883	Fresh Canning Co.:
	canned peas 18884
American Tea & Coffee Co., Inc.:	Friedman, R. M.:
tea 18853	sugar 18860
Armour Creameries:	Friedman, Ralph, Co. See
butter 18868	Friedman, R. M.
Arrow Spice & Food Co.: black pepper 18896	Gorton-Pew Fisheries Co., Ltd.: ocean perch fillets 18874
Baltimore & Ohio Railroad Co.:	Griffin, O. M.:
sugar 18861	
Barry, J. R., & Co.:	Hillman, Buck:
	sorghum sirup 18858
Bercut-Richards Packing Co.:	International Fruit Products
tomato juice 18888	Co.:
Bower, C. A.:	canned maraschino cherries 18877
bread, cookies, and Boston	Irvington Fish & Oyster Co.,
cream pie 18862	Inc.:
Cape King Fisheries, Inc.:	oysters 18876
canned tuna and canned her-	Jane, Martha, Candies, Inc.:
ring roe 188 7 5	candy 18856
Carmelita Candy Co. See Grif-	Jones, J. E.:
fin, O. M.	sorghum sirup 18857
Challenge Cream & Butter Assn.:	Jones Sorghum Mill:
process cheese 18870	sorghum sirup 18859
Chicago Macaroni Co.:	See also Jones, J. E.
table and cooking oil 1889-18891	Klein's Bakery. See Pollack,
olive oil 18891	Henry.
Cleeter, Clarence: butter 18869	Kyle Creamery Assn.: butter 18869
	Laws, W. V., Poultry Co.:
Conrad's Bakery. See Bower, C. A.	dressed poultry 18894
Ellis, L. C.:	Lednum, R. I., & Co.:
butter 18868	canned tomatoes 18886
Eureka Milling Co.:	Lucerne Laboratories of Utah:
soybean oil meal 18873	concentrated extract of al-
Frazier Seed Co., Inc.:	falfa 18900
lespedeza screenings 18872	

N. J.	No.	N	. J. No.
Luden's, Inc.:		Roberts, Fred:	
candy 18	3855	canned tuna and canned her-	
McAdams, T. E.:		ring roe	18875
candy 18	8854	Rosenberg Bros. & Co., Inc.:	
Milligan, G. D., Wholesale		dried pears and dried mixed	
Grocer Co.:	İ	fruit	18880
candy 18	8854	Ruther, J. T., & Sons:	
Nanking Noodle Co.:		butter	18869
mung beans 18	8882	San Luis Feed Co.:	
Paola Butter Co. See Ellis, L. C.		flour	18865
Perlis, Edward:		Showell Poultry, Inc.:	
flour 18	8863	dressed poultry	18893
Pevely Dairy Co.:	Ì	Turlock Cooperative Growers:	
nonfat dry milk solids 18	871	canned peaches	18879
Pollack, Henry:		Wafer-Fizz Corp.:	
flour 18	863	Quenchies1	18851
Railroad Salvage Warehouse Co.		Western Grocer:	
See Friedman, R. M.		flour and rice	18866
Ramirez, Theodore:			
dried chili peppers 18	897		

¹ (18851) Seizure contested. Contains opinion of the court.





The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year

16-56699-1

32N5

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

18901-18950

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

Charles W. Crawford, Commissioner of Food and Drugs.

WASHINGTON, D. C., March 31, 1953.

CONTENTS

	Page		Page
Beverages and beverage materials.	408	Fruits and vegetables	417
Cereals and cereal products	. 409	Canned fruit	417
Bakery products	409	Dried fruit	418
Flour	409	Vegetables and vegetable prod-	-
Miscellaneous cereals	410	ucts	419
Confectionery	412	Tomatoes and tomato products	421
Candy	412	Poultry	422
Sirup	413	Spices, flavors, and seasoning ma-	-
Dairy products	414	terials	422
Butter	414	Vitamin, mineral, and other prod-	•
Cheese	415	ucts of special dietary signifi-	
Eggs	415	cance	425
Fish and shellfish	416	Index	426

BEVERAGES AND BEVERAGE MATERIALS

18901. Misbranding of grape beverage. U. S. v. 199 Cases * * *. (F. D. C. No. 32906. Sample No. 8360-L.)

LIBEL FILED: March 22, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about June 5, 1950, by Choate & Atkins, from Eustis, Fla.

Product: 199 cases, each containing 12 1-quart, 14-fluid-ounce cans of grape beverage at Utica, N. Y.

Label, in Part: "Choate & Atkins Delicious * * * Grape Beverage."

NATURE OF CHARGE: Misbranding, Section 403 (a), the vignette depicting a glass of purple liquid and 2 bunches of grapes and the statements which appeared on the label "Grape Beverage * * * This grape beverage is prepared by the careful blending of grape juice" were false and misleading since the article contained little or no grape juice. (Examination disclosed that the article was an artificially flavored and colored green liquid which contained little or no grape juice.)

DISPOSITION: April 24, 1952. Default decree of condemnation and destruction.

18902. Adulteration of coffee beans. U. S. v. 6 Unlabeled Bags * * * (and 1 other seizure action). (F. D. C. Nos. 32231, 32233. Sample Nos. 23944-L, 23945-L, 36831-L, 36832-L.)

LIBELS FILED: On or about December 20, 1951, Southern District of New York.

Alleged Shipment: The product was an accumulation from various importations.

Product: 19 unlabeled bags of coffee beans at New York, N. Y.

Nature of Charge: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, dirt, and other foreign material. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 25, 1952. Default decrees of condemnation and destruction.

18903. Adulteration of coffee concentrate. U. S. v. 211 Cases * * *. (F. D. C. No. 32912. Sample No. 16466-L.)

LIBEL FILED: On or about March 26, 1952, Northern District of Oklahoma.

ALLEGED SHIPMENT: On or about October 15, 1951, from Dubuque, Iowa.

Product: 211 cases, each containing 24 6-ounce bottles, of coffee concentrate at Bristow, Okla.

Nature of Charge: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed that the product was undergoing progressive decomposition.) It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 18, 1952. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

- 18904. Adulteration of bakery products. U. S. v. Donaldson Baking Co. Plea of nolo contendere. Fine of \$400 and costs. (F. D. C. No. 32763. Sample Nos. 12676-L to 12679-L, incl.)
- Information Filed: March 8, 1952, Western District of Kentucky, against the Donaldson Baking Co., Louisville, Ky.
- ALLEGED SHIPMENT: On or about October 19, 1951, from the State of Kentucky into the State of Indiana.
- LABEL, IN PART: (Rolls) "Donaldson's Sterling 6 Apple [or "Peanut"] Donaldson Baking Co.," (doughnuts) "One Dozen Donuts," and (bread) "Sterling Peter Wheat White Bread."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.
- DISPOSITION: March 12, 1952. A plea of nolo contendere having been entered, the court fined the defendant \$400 and costs.

FLOUR

- 18905. Adulteration of flour. U. S. v. 233 Bags, etc. (F. D. C. No. 32885. Sample Nos. 35593-L, 35594-L.)
- LIBEL FILED: March 24, 1952, Northern District of Iowa.
- ALLEGED SHIPMENT: On or about October 3 and December 14, 1951, from Mandan and Valley City, N. Dak.
- PRODUCT: 233 50-pound bags and 6 25-pound bags of flour at Waukon, Iowa, in the possession of P. F. Dravis.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.
- Disposition: May 10, 1952. P. F. Dravis having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction, or conversion of the unfit portion into animal feed, under the supervision of the Federal Security Agency. 170 50-pound bags and 6 25-pound bags of the product were found unfit and were disposed of for use as animal feed.
- 18906. Adulteration of flour. U. S. v. 13 Bags, etc. (F. D. C. No. 32923. Sample Nos. 48786-L to 48790-L, incl.)
- LIBEL FILED: March 28, 1952, Southern District of Iowa.
- ALLEGED SHIPMENT: On or about July 6 and October 23, 1951, from New Ulm and Minneapolis, Minn.
- Product: 114 100-pound bags of flour at Davenport, Iowa.

- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: April 8, 1952. Max Frank, Davenport, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reconditioned under the supervision of the Federal Security Agency. The product subsequently was denatured for use as animal feed.
- 18907. Adulteration of flour. U. S. v. 26 Bags * * *. (F. D. C. No. 32910. Sample No. 48776–L.)
- LIBEL FILED: March 25, 1952, Northern District of Iowa.
- ALLEGED SHIPMENT: On or about September 28 and December 31, 1951, from Winona, Minn.
- PRODUCT: 26 50-pound bags of flour at Dyersville, Iowa, in possession of Farmers Union.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: April 24, 1952. Default decree of condemnation. The court ordered that the product be sold for use as animal feed or delivered to an institution for use as animal feed, under the supervision of the Food and Drug Administration.
- 18908. Adulteration of flour. U. S. v. 13 Bags, etc. (F. D. C. No. 32934. Sample Nos. 48561–L, 48562–L.)
- LIBEL FILED: April 2, 1952, Southern District of Iowa.
- ALLEGED SHIPMENT: On or about January 3, 1952, from Kansas City, Mo.
- PRODUCT: Flour. 13 50-pound bags and 94 25-pound bags at Burlington, Iowa, in possession of the Benner Tea Co.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: April 24, 1952. The Benner Tea Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Approximately 350 pounds of the flour was denatured for use as animal feed.

MISCELLANEOUS CEREALS

- 18909. Adulteration of unpopped popcorn. U. S. v. 217 Bags * * *. (F. D. C. No. 32965. Sample No. 2018–L.)
- LIBEL FILED: On or about March 24, 1952, Northern District of Georgia.

ALLEGED SHIPMENT: On or about February 11, 1952, by the Wyandot Popcorn Co., from Marion, Ohio.

PRODUCT: 217 100-pound bags of unpopped popcorn at Atlanta, Ga.

LABEL, IN PART: "Wil-Kin Supreme Hybrid South American Popcorn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

18910. Adulteration of unpopped popcorn. U. S. v. 18 Bags * * *. (F. D. C. No. 32952. Sample No. 4670–L.)

LIBEL FILED: March 13, 1952, Northern District of West Virginia.

ALLEGED SHIPMENT: On or about February 20, 1952, by the Wyandot Popcorn Co., from Marion, Ohio.

Product: 18 50-pound bags of unpopped popcorn at Parkersburg, W. Va.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 3, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

18911. Adulteration of unpopped and popped popcorn. U. S. v. 1 Drum, etc. (F. D. C. No. 32890. Sample No. 6815-L.)

LIBEL FILED: March 18, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about February 15, 1952, by the Wyandot Popcorn Co., from Marion, Ohio.

PRODUCT: 1 drum, containing 100 pounds, and 61 cases, each containing 24 1-pound bags, of unpopped popcorn, and 25 2-pound bags of popped popcorn at Oneida, N. Y.

LABEL, IN PART: (Portion) "Jack's Full Pound Net Weight 16 Ounces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: April 24, 1952. Default decree of condemnation and destruction.

18912. Adulteration of rice. U. S. v. 75 Bags * * *. (F. D. C. No. 33109. Sample Nos. 12733-L, 12736-L.)

LIBEL FILED: April 29, 1952, Southern District of Ohio.

ALLEGED SHIPMENT: On or about November 13, 1951, from Carlisle, Ark.

Product: 75 25-pound bags of rice at Cincinnati, Ohio, in possession of the Baltimore & Ohio Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 16, 1952. The Arkansas State Rice Milling Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. Of the 87 bags seized, segregation operations resulted in the salvaging of 22 25-pound bags of the product and in the denaturing of 65 25-pound bags for use as stock feed.

18913. Adulteration of wheat. U. S. v. 1,500 Bushels * * *. (F. D. C. No. 33138. Sample No. 14989–L.)

LIBEL FILED: On or about May 16, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about May 9, 1952, by the W. T. Barstow Grain Co., from Milligan, Nebr.

PRODUCT: 1,500 bushels of wheat at Kansas City, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of musty wheat.

DISPOSITION: May 16, 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, or be destroyed, under the supervision of the Food and Drug Administration.

83,600 pounds of wheat were salvaged, and 37,050 pounds were denatured for use as animal feed.

CONFECTIONERY

CANDY

18914. Adulteration of candy. U. S. v. 133 Cartons, etc. (and 4 other seizure actions). (F. D. C. Nos. 32880, 32881, 32907, 32945, 32951: Sample Nos. 21184-L, 22673-L, 22674-L, 22678-L, 25813-L to 25815-L, incl., 26010-L to 26013-L, incl.)

LIBELS FILED: On or about March 14, 17, 20, 21, and 30, 1952, District of New Jersey, Eastern District of Louisiana, and Southern District of Texas.

ALLEGED SHIPMENT: On or about January 29 and February 7, 15, 20, 21, and 28, 1952, by Luden's Inc., from Reading, Pa.

Product: Candy. 32 cartons, each containing 24 packages, 304 cartons, each containing 24 bars, 284 cartons, each containing 100 bars, and 79 cartons, each containing 120 bars, and 6 30-pound cartons and 3 25-pound cartons at Camden, N. J., Houston, Tex., and New Orleans, La.

LABEL, IN PART: (Bar) "5th Avenue Net Wt. 1½ Oz.," "Luden's Chocolate Covered Mellomint Pattie Net Wt. 1½ Oz.," "Almond Royal Milk Chocolate Net Wt. 1½ Oz.," and "5th Avenue with almonds Net Wt. 1½ Oz."; (carton) "C-41 Luden's Spearmint Leaves 30 Lbs. Net Weight," "C-27 Luden's Orange Slices 30 Lbs. Net Weight," and "C-30 Luden's Black Babies 25

Lbs. Net Weight"; and (package) "Luden's Choc-O-Lets Chocolate Raisins Net Wt. 8 Oz.," "Luden's Choc-O-Lets Chocolate Bridge Mix Net Wt. 8 Oz.," and "Unicy Marshmallows 6½ Oz. Net Wt."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments and insect parts; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Disposition: April 21 and 22 and May 9 and 14, 1952. Luden's, Inc., having consented to the destruction of the New Orleans lots of the products and no person having appeared as claimant for the other lots, judgments of condemnation were entered and the court ordered that the New Jersey lots be delivered to a charitable institution, to be used as feed for swine, and that the other lots be destroyed.

18915. Adulteration of candy. U. S. v. 64 Boxes * * *. (F. D. C. No. 32954. Sample No. 25997-L.)

LIBEL FILED: On or about March 20, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about January 31, 1952, by H. B. Reese Candy, Inc., from Hershey, Pa.

PRODUCT: Candy. 64 boxes, each containing 24 candy cups, at Camden, N. J.

LABEL, IN PART: "The Original Reese's Milk Chocolate Peanut Butter Cup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 5, 1952. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

18916. Adulteration of candy. U. S. v. 17 Boxes * * *. (F. D. C. No. 32884. Sample No. 33648-L.)

LIBEL FILED: March 14, 1952, Northern District of Indiana.

Alleged Shipment: On or about February 20, 1952, from Chicago, Ill.

PRODUCT: 17 5-pound boxes of candy at Gary, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 30, 1952. Default decree of condemnation and destruction.

SIRUP

18917. Adulteration and misbranding of sorghum sirup. U. S. v. 152 Cans, etc. (F. D. C. No. 32919. Sample No. 34246–L.)

LIBEL FILED: March 31, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about March 7, 1952, by Buck Hillman, from Conehatta, Miss.

oje og province i kalender i store står en er en e Mantile grafi i står en i statt og er en å skallige og en er en er en er en er en er en en en en en en en en e

- PRODUCT: 152 unlabeled 1-gallon cans of sirup and 152 loose labels at Gates, Tenn.
- Label, In Part: "Newton County, Mississippi Honey Drip Sorghum Molasses."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum molasses
 - Misbranding, Section 403 (a), the label designation "Sorghum Molasses" was false and misleading.
- DISPOSITION: May 5, 1952. W. H. Critchfield, Gates, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be labeled in compliance with the law, under the supervision of the Food and Drug Administration.
- 18918. Misbranding of sorghum sirup. U. S. v. 20 Cans, etc. (F. D. C. No. 32882. Sample No. 34241–L.)
- LIBEL FILED: March 17, 1952, Western District of Tennessee.
- ALLEGED SHIPMENT: On or about November 1, 1951, by M. Dawson, from Springdale, Ark.
- PRODUCT: Sorghum sirup. 20 1-gallon cans and 13 ½-gallon cans at Covington, Tenn.
- LABEL, IN PART: "Dawson's Sorghum Syrup Made from Sorghum Cane Enriched with Cane Sugar and Glucose."
- NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Sorghum Syrup" was false and misleading since the article consisted of a mixture of sorghum, corn sirup, and sugar sirup.
- DISPOSITION: April 24, 1952. The sole intervener having withdrawn his claim, judgment of condemnation was entered and the court ordered that the product be donated to a public institution.

DAIRY PRODUCTS

BUTTER

- 18919. Adulteration of butter. U. S. v. Lyle O. Weist (Granville Creamery).

 Plea of guilty. Fine of \$50 and costs. (F. D. C. No. 32719. Sample Nos. 18980-L, 18981-L.)
- Information Filed: September 15, 1952, District of North Dakota, against Lyle O. Weist, trading as the Granville Creamery, Granville, N. Dak.
- Alleged Violation: On or about April 25, 1951, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that products delivered by the defendant under the guaranty would be neither adulterated nor misbranded. On or about June 20 and 28, 1951, the defendant caused to be shipped to the holder of the guaranty, at Fargo, N. Dak., a quantity of butter that was adulterated.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, manure, rodent hairs, and seta, and was made from filth-contaminated cream; Section 402 (a) (4), it had been prepared and packed under insanitary

conditions whereby it may have become contaminated with filth; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 30, 1952. A plea of guilty having been entered, the court fined the defendant \$50 and costs.

CHEESE

18920. Adulteration and misbranding of pasteurized process cheese. U. S. v. 6 Boxes * * *. (F. D. C. No. 32961. Sample No. 27680-L.)

LIBEL FILED: March 24, 1952, District of Nevada.

ALLEGED SHIPMENT: On or about February 13, 1952, by Safeway Stores, Inc., from Sacramento, Calif.

Product: 6 boxes, each containing 9 ½-pound packages, of pasteurized process cheese at Reno, Nev.

LABEL, IN PART: "Dutch Mill Pasteurized Process American [or "Swiss Blended with American" or "Pimento"] Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the products contained an added poisonous and deleterious substance, dehydroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the foods and can be avoided by good manufacturing practice.

Misbranding, Section 403 (g) (1), the products purported to be and were represented as "Pasteurized Process American Cheese," "Pasteurized Process Pimento Cheese," and "Pasteurized Process Swiss Blended with American Cheese," and they failed to conform to the respective definitions and standards since they contained dehydroacetic acid, which is not permitted as an ingredient of these cheeses in the definitions and standards.

DISPOSITION: June 6, 1952. Default decree of condemnation and destruction.

EGGS

18921. Adulteration of frozen eggs. U. S. v. C. A. Swanson & Sons. Plea of nolo contendere. Fine of \$300 and costs. (F. D. C. No. 31576. Sample No. 9650-L.)

Information Filed: July 30, 1952, District of Nebraska, against C. A. Swanson & Sons, a corporation, Omaha, Nebr.

ALLEGED SHIPMENT: Between the approximate dates of May 12 and 19, 1951, from the State of Nebraska into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

Disposition: October 30, 1952.. A plea of nolo contendere having been entered, the court fined the defendant \$300 and costs.

18922. Adulteration of frozen eggs. U. S. v. 370 Cans * * *. (F. D. C. No. 32499. Sample No. 38010-L.)

LIBEL FILED: February 7, 1952, District of New Jersey.

ALLEGED SHIPMENT: On or about December 31, 1951, by Frank J. Pilley & Sons, Inc., from Everett, Mass.

Product: 370 30-pound cans of frozen eggs at Jersey City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: May 5, 1952. Frank J. Pilley & Sons, Inc., Sioux City, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. 19 cans of the product were found unfit and were denatured for technical use.

FISH AND SHELLFISH

18923. Adulteration of frozen ocean perch fillets. U. S. v. 20 Cases * * *. (F. D. C. No. 32847. Sample No. 48604-L.)

LIBEL FILED: March 8, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about January 25, 1952, by Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.

Product: 20 cases, each containing 10 5-pound cartons, of frozen ocean perch fillets at Minneapolis, Minn.

LABEL, IN PART: "Gorton's of Gloucester Ocean Perch."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: April 23, 1952. Default decree of condemnation. The court ordered that the product be denatured for use as animal feed or be destroyed.

18924. Misbranding of frozen dressed smelts. U. S. v. 31 Cartons * * *. (F. D. C. No. 32834. Sample No. 14168-L.)

LIBEL FILED: March 14, 1952. District of Colorado.

ALLEGED SHIPMENT: On or about November 27, 1951, by Select Foods, Inc., from San Francisco, Calif.

Product: 31 cartons, each containing 20 1-pound packages, of frozen dressed smelts at Denver, Colo.

LABEL, IN PART: "Ocean Beauty Brand Dressed Smelts Fresh Frozen, Cleaned, Ready to Cook."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Cleaned, Ready to Cook" was false and misleading since the product contained fish from which the guts and milt had not been removed.

DISPOSITION: April 29, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution and that samples be furnished to the Food and Drug Administration.

18925. Adulteration of chub roe. U. S. v. 600 Pounds * * *. (F. D. C. No. 32955. Sample No. 37812–L.)

LIBEL FILED: March 14, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about March 3, 1952, by Fred Buehrer, from Suttons Bay, Mich.

PRODUCT: 600 pounds of chub roe at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: April 2, 1952. Default decree of condemnation and destruction.

18926. Misbranding of oysters. U. S. v. 344 Cans * * *. (F. D. C. No. 32878. Sample No. 3614–L.)

LIBEL FILED: On or about March 14, 1952, Southern District of Indiana.

ALLEGED SHIPMENT: On or about March 10, 1952, by Carol Dryden & Co., Inc., from Crisfield, Md.

Product: 344 pint cans of oysters at Seymour, Ind.

LABEL, IN PART: "Oysters Standards One Pint Pride of the Chesapeake Md 196."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product purported to be and was represented as oysters standards, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard since it was not thoroughly drained.

DISPOSITION: March 19, 1952. Carol Dryden & Co., Inc., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. 258 pints of the product were drained and repacked, resulting in the salvaging of 28 gallons and 5 pints.

18927. Misbranding of oysters. U. S. v. 144 Cans * * *. (F. D. C. No. 32905. Sample No. 4432–L.)

LIBEL FILED: March 24, 1952, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about January 17, 1952, by A. B. Harris & Co., from Oxford, Md.

PRODUCT: 144 pint cans of oysters at Battle Creek, Mich.

LABEL, IN PART: "Tred Avon River Brand Oysters 1 Pint Net."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than 1 pint.)

Disposition: May 13, 1952. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES*

CANNED FRUIT

18928. Misbranding of canned cherries. U. S. v. 47 Cases * * *. (F. D. C. No. 32962. Sample No. 26080–L.)

LIBEL FILED: March 20, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 31, 1951, by the Olympia Canning Co., from Olympia, Wash.

PRODUCT: 47 cases, each containing 6 6-pound, 7-ounce cans, of cherries at Philadelphia, Pa.

LABEL, IN PART: (Can) "Melrose Brand Pitted Black Bing Dark Sweet Cherries."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard for canned cherries since it contained an excessive number of

^{*}See also No. 18948.

pits, and its label failed to bear a statement that the product fell below the standard.

DISPOSITION: April 8, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

18929. Misbranding of canned peaches. U. S. v. 248 Cases * * *. (F. D. C. No. 32956. Sample No. 27241–L.)

LIBEL FILED: March 13, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 6, 1952, by Flotill Products, Inc., from Stockton, Calif.

Product: 248 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Boston, Mass.

LABEL, IN PART: (Can) "Elberta * * * Cal-Top Brand Yellow Freestone Peaches Mixed Pieces of Irregular Sizes and Shapes In heavy Syrup."

Nature of Charge: Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peaches, and its label failed to bear a statement that the product was below the standard; and, Section 403 (f), the information required by law to appear on the label, namely, the name of the optional packing medium present in the food, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use in that the name of the optional packing medium present "heavy syrup" did not appear conspicuously on the label since it was in dark type on a dark background.

DISPOSITION: October 14, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

DRIED FRUIT

18930. Adulteration of pitted dates. U. S. v. 250 Boxes * * *. (F. D. C. No. 32968. Sample No. 33854-L.)

LIBEL FILED: March 26, 1952, Northern District of Illinois.

Alleged Shipment: On or about November 17, 1951, from New York, N. Y.

PRODUCT: 250 70-pound boxes of pitted dates at Chicago, Ill., in possession of the Seng Terminal Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and rodent-gnawed dates; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 29, 1952. The Seng Terminal Warehouse Co. having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation

and destruction of the unfit portion, under the supervision of the Food and Drug Administration. Segregation operations resulted in the destruction of $40\frac{1}{2}$ pounds of the product.

18931. Adulteration of prunes. U. S. v. 29 Cartons * * *. (F. D. C. No. 33648. Sample No. 41889-L.)

LIBEL FILED: August 15, 1952, District of Nevada.

Alleged Shipment: Or or about October 8 and November 8, 1951, from San Jose, Calif.

PRODUCT: 29 30-pound cartons of prunes at Reno, Nev.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 13, 1952. Default decree of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS

18932. Misbranding of canned cut green beans. U. S. v. 49 Cases * * *. (F. D. C. No. 32983. Sample No. 30472-L.)

LIBEL FILED: March 25, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about February 12, 1952, by Starr Foods, Inc., from Salem, Oreg.

PRODUCT: 49 cases, each containing 24 1-pound, 3-ounce cans, of cut green beans at New York, N. Y.

LABEL, IN PART: (Can) "Star-E-Gon Cut Green Stringless Beans Blue Lake."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned green beans since there were present pods or pieces of pods 27/64 inch or more in diameter, and the product contained an excessive number of tough strings; and, Section 403 (a), the label designation "Stringless" was false and misleading since the product contained tough strings.

DISPOSITION: April 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18933. Adulteration and misbranding of canned kidney beans. U. S. v. 119
Cases * * *. (F. D. C. No. 32977. Sample No. 6382-L.)

LIBEL FILED: March 24, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 14 and February 5, 1952, by D. E. Foote & Co., from Baltimore, Md.

PRODUCT: 119 cases, each containing 24 1-pound cans, of kidney beans at South Boston, Mass.

LABEL, IN PART: (Can) "Family Brand Cannellini Cotti White Kidney Beans."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a variety of beans other than white kidney had been substituted in whole or in part for white kidney or Cannellini.

Misbranding, Section 403 (a), the label statements "Cannellini * * * White Kidney Beans" were false and misleading.

DISPOSITION: May 14, 1952. D. E. Foote & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

18934. Adulteration of corn. U. S. v. 34,410 Pounds * * *. (F. D. C. No. 33054. Sample No. 34105–L.)

LIBEL FILED: On or about April 8, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about March 20, 1952, by the Westview Grain Co., from Westview, Iowa.

PRODUCT: 34,410 pounds of corn at Springfield, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of sour and musty corn.

Disposition: April 11, 1952. Claude Van Gundy, trading as the Westview Sales Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. 29,330 pounds of corn were salvaged, and 5,080 pounds were destroyed.

18935. Adulteration of potatoes. U. S. v. 9 Bags * * *. (F. D. C. No. 33002. Sample No. 33700-L.)

LIBEL FILED: April 9, 1952, Northern District of Illinois.

Alleged Shipment: On or about February 1, 1952, by Marcus A Pomeroy, from Kimberly, Idaho.

Product: 9 100-pound bags of potatoes at Chicago, Ill.

LABEL, IN PART: "Idaho MP Brand Mark's Pack Potatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its unpleasant off-flavor.

Disposition: May 21, 1952. Default decree of condemnation and destruction.

18936. Adulteration of cucumber chips. U. S. v. 49 Cases * * *. (F. D. C. No. 32979. Sample No. 3716–L.)

LIBEL FILED: On or about April 2, 1952, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about December 20, 1951, and January 8, 9, and 18, 1952, by J. H. Klein & Co., from Philadelphia, Pa.

PRODUCT: 49 cases, each containing 12 quart jars, of cucumber chips at Richmond, Va.

LABEL, IN PART: (Jar) "Klein's * * * Home Style Fresh Pak Kosher Cucumber Chips."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect parts.

DISPOSITION: April 24, 1952. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS*

- 18937. Adulteration of canned tomatoes. U. S. v. 611 Cases * * *. (F. D. C. No. 30876. Sample Nos. 27920-L, 27928-L.)
- LIBEL FILED: On or about April 6, 1951, District of Maryland.
- ALLEGED SHIPMENT: On or about March 3, 1951, by Flotill Products, Inc., from Stockton, Calif.
- Product: 611 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at Baltimore, Md.
- LABEL, IN PART: (Can) "La Gustosa Brand * * * Unpeeled Plum To-matoes."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- Disposition: September 23, 1952. Flotill Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product subsequently was examined for the purpose of segregating the good portion from the bad. As a result, approximately 321 cases of the product were found unfit and were destroyed.
- 18938. Adulteration of tomato catsup. U. S. v. 48 Cases * * *. (F. D. C. No. 33051. Sample No. 18404–L.)
- Libel Filed: April 10, 1952, District of Nevada.
- ALLEGED SHIPMENT: On or about February 4, 1952, by Smart & Final, from Glendale, Calif.
- Product: 48 Cases, each containing 6 7-pound cans, of tomato catsup at Las Vegas, Nev.
- LABEL, IN PART: "Table Queen Brand."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION: May 20, 1952. Default decree of condemnation and destruction.
- 18939. Adulteration of cream of tomato soup. U. S. v. 718 Cases * * *. (F. D. C. No. 32938. Sample Nos. 26108–L, 26110–L.)
- LIBEL FILED: March 6, 1952, Eastern District of Pennsylvania.
- ALLEGED SHIPMENT: On or about February 5 and 12, 1952, by the H. J. Heinz Co., from Salem, N. J.
- PRODUCT: 718 cases, each containing 48 8-ounce cans, of cream of tomato soup at Philadelphia, Pa.
- Label, in Part: (Can) "Heinz Cream of Tomato Soup."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.
- DISPOSITION: April 22, 1952. Default decree of condemnation and destruction.

^{*}See also No. 18942.

POULTRY

18940. Adulteration of dressed poultry. U. S. v. 237 Pounds, etc. (F. D. C. No. 32980. Sample Nos. 6426–L, 6428–L, 6429–L.)

LIBEL FILED: March 24, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 22 and 25 and November 4 and 6, 1951, and February 24, 1952, by Vermont Poultry, Inc., from Bellows Falls, Vt.

PRODUCT: 1,033 pounds of poultry at West Springfield, Mass.

LABEL, IN PART: "Dymond Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: May 21, 1952. Default decree of condemnation and destruction.

18941. Adulteration and misbranding of frozen chicken gizzards. U. S. v. 29 Cases * * *. (F. D. C. No. 32602. Sample No. 32404-L.)

LIBEL FILED: January 18, 1952, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about December 29, 1951, from Gainesville, Ga.

Product: 29 cases, each containing 12 1-pound cartons, of frozen chicken gizzards at Little Rock, Ark.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of wood, feathers, dirt, and intestinal contents.

Misbranding, Section 403 (a), the label statement "Thoroughly Cleaned," which appeared on the cartons, was false and misleading.

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: February 18, 1952. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

18942. Adulteration of dried condiments. U. S. v. 273 Cans * * *. (F. D. C. No. 32659. Sample No. 16218–L.)

Libel Filed: On or about February 13, 1952; amended on April 2, 1952, Western District of Missouri.

Alleged Shipment: On or about October 24, 1951, from Topeka, Kans.

Product: 273 cans, each containing from 8 to 30 pounds, of dried condiments, including red sweet peppers, tomato flakes, tomato pieces, onion powder, and garlic powder at Kansas City, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (tomato flakes) the product consisted in whole or in part of a filthy substance by reason of contamination with flood waters; and, Section 402 (a) (4), (all condiments) the products had been held under insanitary conditions whereby they may have become contaminated with filth.

The products were adulterated while held for sale after shipment in interstate commerce.

Disposition: May 29, 1952. Default decree of condemnation and destruction.

18943. Adulteration of paprika. U. S. v. 23 Bags, etc. (F. D. C. No. 32527. Sample Nos. 38363-L, 38364-L.)

LIBEL FILED: February 19, 1952, Eastern District of New York.

ALLEGED SHIPMENT: On or about November 30, 1950, and February 16, 1951, from French Morocco and Spain.

Product: 62 110-pound bags of paprika at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 1, 1952. The Hudson Tea & Spice Co., Brooklyn, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed under the supervision of the Food and Drug Administration. Salvage attempts were unsuccessful, and the product was destroyed.

18944. Adulteration of imitation black pepper. U. S. v. 1 Drum, etc. (F. D. C. No. 32649. Sample No. 30467–L.)

LIBEL FILED: February 13, 1952, District of Oregon.

ALLEGED SHIPMENT: On or about January 17, 1952, by R. C. Pauli & Sons, from San Francisco, Calif.

PRODUCT: 276 pounds of imitation black pepper at Portland, Oreg.

LABEL, IN PART: "Tropic Brand Imitation Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: April 7, 1952. Default decree of condemnation and destruction.

18945. Adulteration and misbranding of french dressing. U. S. v. 44 Cases, etc. (F. D. C. No. 32657. Sample No. 16578-L.)

LIBEL FILED: On or about February 14, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about January 24, 1952, from Kansas City, Mo.

PRODUCT: French dressing. 44 cases, each containing 24 8-ounce bottles, 9 cases, each containing 4 1-gallon bottles, and 10 cases, each containing 24 4-ounce bottles, at Kansas City, Mo.

LABEL, IN PART: "Gables Famous French Dressing."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in whole or in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil.

DISPOSITION: April 1, 1952. A default decree was entered ordering the product delivered to a charitable institution.

18946. Adulteration and misbranding of french dressing. U. S. v. 7 Cases, etc. (F. D. C. No. 32414. Sample Nos. 35273-L to 35275-L, incl.)

LIBEL FILED: January 8, 1952, District of North Dakota.

ALLEGED SHIPMENT: Between the approximate dates of May 31 and November 13, 1951, by Fisher Food Products, from Wadena, Minn.

PRODUCT: French dressing. 36 cases, each containing 24 8-ounce bottles, and 7 cases, each containing 4 1-gallon bottles, at Fargo, N. Dak.

LABEL, IN PART: "Fisher's French Dressing * * * Net 8 Fl. Oz." or "Fisher's Roquefort Style French Dressing * * * Contains * * * Domestic Roquefort and Blue Cheese * * * Net 8 Fl. Oz."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been omitted or abstracted from the product. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil and contained cheese which is not permitted as an optional ingredient of french dressing.

29 cases. Misbranding, Section 403 (a), the label designation "Roquefort Style" was false and misleading since the product contained blue cheese.

1-gallon bottles. Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the bottles bore the statement "Net 8 Fl. Oz."

DISPOSITION: May 8, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18947. Adulteration and misbranding of french dressing. U. S. v. 17 Cases * * * (F. D. C. No. 32364. Sample Nos. 35278-L, 35279-L.)

LIBEL FILED: January 10, 1952, District of North Dakota.

ALLEGED SHIPMENT: On or about October 8 and December 4, 1951, from Minneapolis, Minn., by J & C Sales, Inc.

PRODUCT: 17 cases, each containing 4 1-gallon bottles, of french dressing at Fargo, N. Dak.

Label, in Part: (Bottle) "J & C Brand French Dressing."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil, the minimum permitted by the definition and standard.

DISPOSITION: May 8, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

18948. Misbranding of salad dressing and apple jelly. U. S. v. 16 Cases, etc. (F. D. C. No. 32953. Sample Nos. 1280-L, 1282-L.)

LIBEL FILED: March 17, 1952, Southern District of Georgia.

ALLEGED SHIPMENT: On or about January 8 and 26 and February 1, 1952, by Wood Brothers, from Cayce, S. C.

PRODUCT: 16 cases, each containing 4 1-gallon jars, of salad dressing, and 7 cases, each containing 4 1-gallon jars, of jelly at Augusta, Ga. (Examination disclosed that the jelly was grape jelly.)

LABEL, IN PART: "Glenwood Salad Dressing" and "Glenwood Apple Jelly."

NATURE OF CHARGE: Salad dressing. Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for salad dressing since it contained less than 30 percent by weight of vegetable oil.

Jelly. Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for fruit jelly since it was made from a mixture composed of less than 45 parts by weight of the fruit juice ingredient (grape) to each 55 parts by weight of one of the optional sweetening ingredients specified in the standard and since it contained artificial flavor and color, which are not permitted as ingredients by the standard.

DISPOSITION: April 14, 1952. Default decree of condemnation. The court ordered that the products be delivered to a charitable institution.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

18949. Adulteration and misbranding of Blexin vitamin B complex liquid. U. S. v. 53 Boxes * * *. (F. D. C. No. 33394. Sample No. 8096-L.)

LIBEL FILED: June 13, 1952, Western District of Pennsylvania.

Alleged Shipment: On or about November 7, 1951, by the F. H. Shallus Co., from Baltimore, Md.

PRODUCT: 53 boxes, each containing 48 1-pint bottles, of Blexin vitamin B complex liquid at Pittsburgh, Pa.

Label, in Part: "Blexin I. V. C. Natural Vitamin B Complex Liquid * * * International Vitamin Division American Home Products Corporation New York, N. Y. Blexin Contains Per Teaspoonful (5 cc.) 360 U. S. P. Units Vitamin B_1 * * * 300 Micrograms Vitamin B_6 ."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin B₁ and vitamin B₆, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Blexin Contains Per Teaspoonful (5 cc.) 360 U. S. P. Units Vitamin B_1 * * * 300 Micrograms Vitamin B_6 " was false and misleading as applied to the article, which contained less than those amounts of vitamin B_1 and vitamin B_6 .

DISPOSITION: July 1, 1952. Default decree of condemnation. The court ordered that the product be delivered to local hospitals.

18950. Adulteration and misbranding of Nu Min's tablets. U. S. v. 68 Bottles, etc. (F. D. C. No. 32936. Sample No. 48300-L.)

LIBEL FILED: April 4, 1952, District of South Dakota.

ALLEGED SHIPMENT: On or about July 6, 1949, from Evansville, Ind.

PRODUCT: Nu Min's tablets. 68 bottles, each containing 250 tablets, and 42 bottles, each containing 100 tablets, at Sioux Falls, S. Dak.

Label, in Part: "Nu Min's Tablets Five tablets daily represent these vitamin values: B₁-5 mg. * * * B₆-1.0 mg. * * * D 1000 units."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamins B₁, B₆, and D, and been in part omitted or abstracted from the product.

en de la companya de la co

Misbranding, Section 403 (a), the label statements "Five tablets daily represent these vitamin values: B_1 -5 mg. * * * B_0 -1.0 mg. * * * D 1000 units" were false and misleading.

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: May 6, 1952. Default decree of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 18901 TO 18950

PRODUCTS

N. J. No.	N. J. No.
Apple jelly 18948	
Bakery products 18904	
Beans, green, canned 18932	
kidney, canned 18933	
Beverages and beverage mate-	Nu Min's tablets 18950
rials 18901–18903	
Blexin vitamin B complex liquid_ 18949	
Bread and rolls 18904	Paprika 18943
Butter 18919	Peaches, canned 18929
Candy 18914-18916	Pepper, black, imitation 18944
Catsup, tomato 18938	Peppers, red sweet, dried 18942
Cereals and cereal products 18904-	Perch fillets, frozen 18923
18913	Popcorn, popped 18911
Cheese 18920	unpopped 18909-18911
Cherries, canned 18928	Potatoes 18935
Chickens, etc. See Poultry.	Poultry, dressed 18940
Chub roe 18925	Prunes 18931
Coffee beans 18902	Rice 18912
concentrate 18903	Roe, chub 18925
Corn (bulk) 18934	Rolls. See Bread and rolls.
Cucumber chips 18936	Salad dressing 18948
Dairy products 18919, 18920	Shellfish. See Fish and shellfish.
Dates, pitted 18930	
Doughnuts 18904	Sirup, sorghum 18917, 18918
Eggs, frozen 18921, 18922	Smelts, dressed, frozen 18924
Fish and shellfish 18923-18927	Sorghum sirup 18917, 18918
Flavors. See Spices, flavors, and	Spices, flavors, and seasoning
seasoning materials.	materials 18942-18948
Flour 18905-18908	*
French dressing 18945–18947	catsup 18938
Fruits and vegetables 18928-18939,	
18942, 18948	·
fruit, canned 18928, 18929	soup, cream of 18939
dried 18930, 18931	
tomatoes and tomato prod-	tables.
ucts 18937–18939, 18942	Vitamin, mineral, and other prod-
vegetables and vegetable prod-	ucts of special dietary sig-
ucts 18932-18936	, , , , , , , , , , , , , , , , , , , ,
Garlic powder 18942	Wheat 18913

SHIPPERS. MANUFACTURERS. AND DISTRIBUTORS

N. J	. No.	1	N. J. No.
Baltimore & Ohio Warehouse		J & C Sales, Inc.:	
Co.:		french dressing	18947
rice 18	8912	Klein, J. H., & Co.:	
Barstow, W. T., Grain Co.:		cucumber chips	18936
wheat 18	8913	Luden's, Inc.:	•
Benner Tea Co.:		candy	. 18914
flour 18	8908	Olympia Canning Co.:	
Buehrer, Fred:		canned cherries	18928
chub roe 18	8925	Pauli, R. C., & Sons:	
Choate & Atkins:		imitation black pepper	18944
grape beverage 18	8901	Pilley, Frank J., & Sons, Inc.:	
Dawson, M.:		frozen eggs	. 18922
sorghum sirup 18	8918	Pomeroy, M. A.:	
Donaldson Baking Co.:		potatoes	18935
bakery products 18	8904	Reese, H. B., Candy, Inc.:	. 10000
Dravis, P. F.:		candy	18915
flour 18	8905		. 10010
Dryden, Carol, & Co., Inc.:	ĺ	Safeway Stores, Inc.:	10000
oysters 18	8926	pasteurized process cheese	. 10820
Farmers Union:		Select Foods, Inc.:	10004
flour 18	8907	frozen dressed smelts	. 18924
Fisher Food Products:		Seng Terminal Warehouse Co.:	
french dressing 18	8946	pitted dates	18930
Flotill Products, Inc.:	Ì	Shallus, F. H., Co.:	
canned peaches 18	8929	Blexin vitamin B complex	
tomatoes 18		liquid	. 18949
Foote, D. E., & Co.:		Smart & Final:	
canned kidney beans 18	8933	tomato catsup	18938
Gorton-Pew Fisheries Co., Ltd.:		Starr Foods, Inc.:	
frozen perch fillets 18	8923	canned cut green beans	18932
Granville Creamery. See Weist,		Swanson, C. A., & Sons:	
L. O.		frozen eggs	18921
Harris, A. B., & Co.:		Vermont Poultry, Inc.:	. 10021
oysters 18	8927		19040
Heinz, H. J., Co.:		dressed poultry	10940
cream of tomato soup 18	8939	Weist, L. O.:	10010
Hillman, Buck:		butter	18919
sorghum sirup 18	8917	Westview Grain Co.:	
International Vitamin Div.,		corn (bulk)	18934
American Home Products		Wood Bros.:	
Corp.:		salad dressing and apple jelly_	18948
Blexin vitamin B complex	13	Wyandot Popcorn Co.:	
liquid 18	8949	unpopped popcorn 18909	-18911
	4		



The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year

32N/5

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

18951-19000

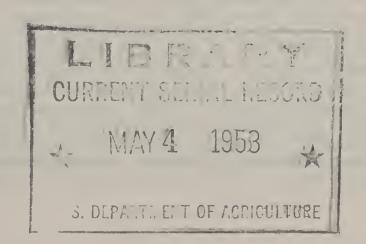
FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

Charles W. Crawford, Commissioner of Food and Drugs. Washington, D. C., April 8, 1953.

CONTENTS

	Page		Page
Beverages and beverage materials	430	Fruits and vegetables	441
Cereals and cereal products	434	Canned fruit	. 441
Flour	434	Vegetables	. 442
Macaroni and noodle products	435	Tomatoes and tomato products	. 443
Miscellaneous cereals and cereal		Meat and poultry	445
products	436	Nuts	. 446
Dairy products	437	Spices, flavors, and seasoning ma-	-
Butter	437	terials	. 448
Cheese	438	Index	. 450
Fish and shellfish	439		



246201-53---1

429

BEVERAGES AND BEVERAGE MATERIALS

18951. Adulteration of coffee sweepings. U. S. v. 14 Bags, etc. (and 2 other seizure actions). Tried to the court. Judgment for Government in 2 actions and judgment for claimant in 1 action; judgments for Government affirmed upon appeal and judgment for claimant reversed. Decrees of condemnation. (F. D. C. Nos. 27621, 27623, 27632. Sample Nos. 11546-K to 11548-K, incl., 11550-K.)

LIBEL FILED: August 2, 4, and 5, 1949, Eastern and Southern Districts of New York.

ALLEGED SHIPMENT: On or about May 18 and July 1 and 5, 1949, by the General Foods Corp., from Hoboken, N. J.

Product: 125 110-pound bags and 14 110-pound bags of coffee sweepings at Brooklyn, N. Y., and 35 110-pound bags of the product at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of dirt, wood splinters, matted fibers, and other miscellaneous debris.

DISPOSITION: O. F. Bayer & Co., New York, N. Y., appeared as claimant for the 125-bag lot, and the Savoy Tea & Coffee Co., Inc., appeared as claimant for the 14-bag lot. Answers were filed by the claimants, denying the adulteration of the product as alleged in the libels. The actions against each lot were consolidated for trial, without a jury, before the United States Court for the Eastern District of New York. On February 17, 1950, the trial was held, and on April 19, 1950, after consideration of the evidence and arguments and briefs of counsel, the court handed down the following opinion:

RAYFIEL, District Judge: "Libels of information were filed by the United States of America in each of the above entitled actions, praying for seizure and condemnation of a certain product in each of said libels described, consisting of coffee sweepings, charging that the same was adulterated when introduced into and while in interstate commerce, within the meaning of the Federal Food, Drug and Cosmetic Act, Title 21 U. S. C., section 342 (a) (3), in that it consisted wholly or in part of a filthy substance, due to the presence therein of dirt, wood splinters, matted fibers and other miscellaneous debris, and that by reason thereof the said product is held illegally within the jurisdiction of this Court.

"The claimants, Andrew J. O'Loughlin and Otto F. Bayer, doing business under the firm name and style of O. F. Bayer & Company, and Savoy Tea & Coffee Co., Inc., filed answers denying that the product shipped in interstate

commerce, as aforesaid, was adulterated.

"Section 342 (a) (3) of Title 21, U.S. C., (Federal Food, Drug and Cosmetic Act), provides that a food shall be deemed to be adulterated 'if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food,' and under subdivision (a) (4) of said section food is adulterated 'if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.'

"It is inevitable, due to the nature of the material and the construction of the bags in which the green coffee beans are shipped, and the handling which they undergo during loading and unloading operations, that part of the contents of the bags will leak or filter onto the decks, platforms, piers or docks on which they are handled. Probably with that in mind the Food and Drug Administration in 1945 issued a directive to shipping companies and coffee importers to the effect that they might retrieve coffee which had spilled from bags provided it had not made contact with the floor, and provided also that the work of salvage was performed with clean equipment. The directive further stated that coffee swept from the floors of wharves or the holds of ships would be denied entry. Thus the determinant of propriety for salvage was to be the fact that the food product was not in contact with foreign substances of various kinds which one might expect to find on piers, wharves, docks and

the holds of ships.

"At the commencement of the trial it was stipulated that both actions be consolidated and that the articles described in the libels were shipped in interstate commerce within the meaning of the Federal Food, Drug, and Cosmetic Act.

"It appears from the testimony that 253 bags of green coffee were sold to O. F. Bayer and Company, one of the claimants herein, and were delivered to Arbuckles Jay Street Terminal, Inc., for cleaning. This operation produced 195 bags of coffee and 58 bags (almost 23% of the entire shipment) of waste and residue. Fourteen of the said 195 bags were thereafter sold to Savoy Tea and Coffee Co., Inc., the other claimant herein.

"Samples of the remaining coffee were then inspected and Government exhibits show that even after the aforementioned cleaning and separation large quantities of dust, wood splinters and other foreign substances remained in

the inspected samples.

"Grace Sly, a chemist and a Government witness, testified that some of the remaining beans were treated with water and others with chloroform, the latter because of its greater effectiveness as a solvent, and the tests so made

produced a quantity of dirt, grime and oil.

"The large amount, and the nature and character, of the extraneous matter remaining after the aforementioned cleanings, inspections and tests, convinces me that the coffee described in the libels had been in contact with the pier, deck, ship's hold or dock with what appears to me to be the inevitable result that it has been contaminated with the dirt, dust debris and other matter which is found in such places. The claimants offered no testimony in rebuttal of the Government's evidence that the coffee contained extraneous matter.

"The claimants urge that fruits and vegetables, particularly potatoes, frequently contain a layer of dirt or have been sprayed with insecticides. It must be remembered, however, that fruits and vegetables are invariably carefully washed and scrubbed before consumption. In addition many fruits and vegetables are scraped or peeled before they are eaten. In the case of coffee the

consumer does not eat the bean but the liquid in which it is brewed.

"The claimants contended also that if the coffee were put through certain processes it would become a wholesome product. The testimony concerning the processes to be employed for that purpose was quite ingenious and involved, but not convincing. The extraneous matter was present in too large a quantity to justify the use of the coffee for human consumption. I feel, therefore, that the claimants should not be permitted to re-process the product for use as a beverage.

"Judgment of condemnation is accordingly granted in favor of the Govern-

ment.

"It may be that the coffee can have some scientific, technical or commercial use. If that be so the decree can provide for such disposition and use under the supervision of government representatives.

"Submit, on notice, decree, proposed findings of fact, and conclusions of

law in conformity herewith.'

In accordance with the above opinion, judgments were entered in favor of the Government on June 6, 1950, against the 125-bag and 14-bag lots, providing for the condemnation of the product and ordering that the product be destroyed or released under bond for salvaging for commercial purposes, under the supervision of the Federal Security Agency.

With respect to the 35-bag lot at New York, N. Y., Polin Bros., Inc., New York, N. Y., appeared as claimant and filed an answer denying the essential allegations of the libel. The matter came on for trial without a jury before the United States Court for the Southern District of New York. At the close of the trial, the court dismissed the libel on the basis of its findings of fact that there was no evidence on which the court could base any findings that green coffee was a food, or had been considered a food, and no evidence that

the customary and necessary process to which green coffee is subjected before intended for human consumption could not render the product wholesome.

Appeals were taken to the United States Court of Appeals for the Second Circuit by the claimants for the Brooklyn lots, and an appeal was taken by the Government with respect to the decision relating to the New York lot. The appeals were consolidated, and on April 20, 1951, after considering the arguments and briefs of counsel, the following opinion was handed down:

SWAN, Circuit Judge: "These appeals bring up for review three libels for seizure and condemnation under the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 301 et seq., of green coffee beans. The cases were tried to the court without a jury, two in the Eastern District of New York and one in the Southern District. The coffee beans involved in the three actions were all part of a common lot of 253 bags which were shipped in interstate commerce from Hoboken, New Jersey, to Brooklyn, New York, for the account of O. F. Bayer & Co. Bayer & Co. retained some of the bags, sold others to Savoy Tea and Coffee Co., Inc., of Brooklyn and still others to Polin Bros., Inc., who brought them to Manhattan. Judge Rayfiel in the Eastern District held that the goods there seized were 'food' within the statutory definition, 21 U. S. C. A. § 321 (f), were 'adulterated' when introduced into and while in interstate commerce within the meaning of 21 U. S. C. A. § 342 (a) (3), and were subject to condemnation pursuant to 21 U. S. C. A. § 334 (a). From the resulting judgments, the respective claimants, O. F. Bayer & Co. in one case and Savoy Tea and Coffee Co., Inc., in the other, appealed. In the Southern District case, upon substantially the same evidence, Judge Clancy dismissed the libel, and the United States has appealed. In this case the claimant was Polin Bros., Inc. Judge Clancy's decision was rested on two 'findings of fact': (1) 'no evidence in the case * * * that green coffee is a food,' and (2) 'no evidence in the case that the customary and necessary process to which the green coffee is subjected before intended for human consumption cannot render this seized material wholesome.'

'The statutory definition of food is quoted in the margin.' As the briefs for the claimants concede, it is common knowledge, of which a court may take judicial notice, that the drink called 'coffee' is made from roasted coffee beans. It is also common knowledge that green coffee beans are used to produce the roasted coffee beans. Hence no evidence is necessary to establish that green coffee beans are a 'food' as defined by the statute. Whether or not they are edible before being roasted, they are certainly 'components' of an article used for food. Hence they fulfill the statutory definition of 'food.' Nor is it material that a further process, 'roasting,' is necessary before they are intended for human consumption. A 'food' does not have to be ready to eat or drink before it can be adulterated and subject to condemnation. Decisions so holding are cited in the margin. The Southern District case cannot be supported on either of the court's 'findings of fact.'

"Judge Rayfiel found that the articles seized were coffee sweepings, and that 'There was mixed with the coffee sweepings extraneous filthy matter in

that 'There was mixed with the coffee sweepings extraneous filthy matter in the nature of dirt, wood splinters, matted fibers and other miscellaneous debris which was swept up with the coffee after it had been spilled' in the ship's hold or on the deck where the coffee was unloaded from the carrying vessel. He found also that prior to seizure an attempt was made by Arbuckle's Jay Street Terminal, Brooklyn, N. Y., to clean the coffee sweepings. This produced 58

¹ Section 321 (f), 21 U. S. C. A.: "The term food means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article."

components of any such article."

² In accord with Judge Rayfiel's ruling to this effect in *United States* v. 500 Bags of Green Coffee, E. D. La., Misc. File No. 642, decided January 25, 1951.

³ 21 U. S. C. A. § 342 provides: "A food shall be deemed adulterated—(a) * * * (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; * * *."

⁴ United States v. 52 Drums of Maple Syrup, 2 Cir., 110 F. 2d 914; Union Dairy Co. v. United States, 7 Cir., 250 F. 231; In re United States, 5 Cir., 140 F. 2d 19. See also United States v. Two Bags, etc., 6 Cir., 147 F. 2d 123, 127; United States v. 24 Cans, etc., 5 Cir., 148 F. 2d 365, 367.

bags of waste and 195 salvaged bags of coffee beans from the 253 bags subject to the cleaning operation. All of the articles seized were part of the 195 salvaged bags. 'The articles seized still contain large quantities of dust, wood splinters and other foreign substances.' These findings are not 'clearly erroneous'; the evidence amply supports them. Indeed, we think contrary findings would not have been sustainable. The claimants urge that the cleaning operation was merely inadequate and that the foreign matter will be eliminated by the roasting process to which the green beans will be subjected. But as already noted, food which is adulterated may be condemned even though it is intended to have the adulteration eliminated by a future process.'

"Finally, it is urged that the court should have exercised 'its statutory discretion' to permit the claimants to export the seized articles, and section 334 (d) of 21 U. S. C. A. is cited in support of this contention. This argument wholly misconceives the extent of the judge's authority under that section. Judge Rayfiel's decree made provision for salvage of the coffee under the supervision of the Federal Security Agency pursuant to section 334 (d), but no authority is given him by section 334 (d) or by any other provision of the Act to permit export after condemnation. We so held in *United States* v. *Kent Food Corp.*,

168 F. 2d 632, cert. denied 335 U. S. 885.

"The judgments of condemnation are affirmed. The judgment of dismissal is reversed and the cause remanded for further proceedings in conformity with this opinion."

Pursuant to the above opinion and with the consent of the claimant for the New York lot, judgment was entered on March 17, 1952, providing for the condemnation and destruction of the product involved in that lot.

18952. Adulteration and misbranding of orange beverage. U. S. v. 21 Jugs * * *. (F. D. C. No. 32019. Sample No. 35252-L.)

LIBEL FILED: November 15, 1951, Southern District of Illinois.

Alleged Shipment: On or about October 15, 1951, by the Quad City Juice Co., from Davenport, Iowa.

Product: 21 ½-gallon jugs of orange beverage at Rock Island, Ill.

LABEL, IN PART: "Western Juices Western Orange Blend."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), yellow coal-tar dyes, orange oil, citric acid, sugar, and water had been added to the product and mixed and packed with it so as to increase its bulk and weight and make it appear to be better and of greater value than it was, namely, a beverage containing substantially more orange juice than was present in the product.

Misbranding, Section 403 (a), the vignette depicting an orange, a half orange, and other fruit, and the statements "Western Juices Western Orange Blend," which appeared on the label, were false and misleading since the product was an artificially colored, orange-oil flavored beverage containing only about 17 percent of orange juice or reconstituted orange juice, with only about one-twelfth of the amount of vitamin C normally present in orange juice; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: January 25, 1952. Default decree of condemnation and destruction.

⁵ Finding No. 7.

⁶ See cases cited in footnote 4 supra.

CEREALS AND CEREAL PRODUCTS

FLOUR

18953. Adulteration of flour. U. S. v. 49 Bags * * *. (F. D. C. No. 32095. Sample No. 13580-L.)

LIBEL FILED: November 14, 1951, District of Colorado.

ALLEGED SHIPMENT: On or about October 15, 1951, from Lincoln, Nebr.

PRODUCT: 49 100-pound bags of flour at Denver, Colo., in possession of the Ellis Canning Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 17, 1952. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be sold for use as animal feed.

18954. Adulteration of flour. U. S. v. 200 Bags * * *. (F. D. C. No. 32677. Sample No. 22218-L.)

LIBEL FILED: February 28, 1952, Southern District of Alabama.

ALLEGED SHIPMENT: On or about September 14 and October 10, 1951, from Wichita Falls, Tex.

PRODUCT: 200 10-pound bags of flour at Mobile, Ala., in possession of Autry Greer & Sons.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 11, 1952. Default decree of condemnation and destruction.

18955. Adulteration of flour. U. S. v. 43 Bags, etc. (F. D. C. No. 32879. Sample Nos. 48778-L to 48780-L, incl.)

LIBEL FILED: March 21, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: Between the approximate dates of March 6, 1951, and January 17, 1952, from Lincoln, Nebr.

PRODUCT: 120 50-pound bags of flour at Davenport, Iowa in possession of the Barnett Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 27, 1952. The Barnett Grocery Co., claimant, Davenport, Iowa, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The product was denatured for industrial use.

- 18956. Adulteration of flour. U. S. v. 37 Bags * * *. (F. D. C. No. 32096. Sample No. 18810–L.)
- LIBEL FILED: November 12, 1951, Southern District of Iowa.
- Alleged Shipment: On or about August 21, 1951, from Minneapolis, Minn.
- PRODUCT: 37 25-pound bags of flour at Marshalltown, Iowa, in possession of the Witwer Grocer Co.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: December 14, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization to be used for animal feed.
- 18957. Adulteration of flour and bakers mixes. U. S. v. 8 Bags, etc. (F. D. C. No. 32042. Sample Nos. 21601-L, 21602-L, 22131-L to 22133-L, incl.)
- Libel Filed: October 23, 1951, Southern District of Mississippi.
- ALLEGED SHIPMENT: On or about August 22 and September 2 and 6, 1951, from Memphis, Tenn.
- PRODUCT: 8 100-pound bags of doughnut mix, 13 100-pound bags of pie flour, 3 100-pound bags of plain flour, 2 100-pound bags of cake flour, and 5 100-pound bags of roll mix, at Gulfport, Miss.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: December 11, 1951. Default decree of condemnation. The court ordered that the products be denatured and sold for use as animal feed, or if not sold, that they be donated to some public institution or be destroyed. The products were delivered to a State institution.

MACARONI AND NOODLE PRODUCTS

- 18958. Adulteration of Chinese dried noodles. U. S. v. 19 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 32609, 32610. Sample Nos. 32333-L, 32335-L.)
- LIBELS FILED: On or about January 21 and 23, 1952, Eastern District of Missouri.
- ALLEGED SHIPMENT: On or about December 13, 1951, and January 2, 1952, by Hong Kong Noodle Co., Inc., from Chicago, Ill.
- PRODUCT: 43 10-pound boxes of Chinese dried noodles at St. Louis, Mo.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: February 18 and 19, 1952. Default decrees of condemnation and destruction.

18959. Adulteration of Chinese dried noodles. U. S. v. 30 Cartons * * *. (F. D. C. No. 32611. Sample No. 10470-L.)

LIBEL FILED: January 23, 1952, Eastern District of Michigan.

Alleged Shipment: On or about December 11, 1951, by Hong Kong Noodle Co., Inc., from Chicago, Ill.

Product: 30 5-pound cartons of Chinese dried noodles at Detroit, Mich.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 27, 1952. Default decree of condemnation and destruction.

18960. Adulteration of spaghetti. U. S. v. 180 Cases * * *. (F. D. C. No. 32622. Sample No. 48214–L.)

LIBEL FILED: January 24, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about November 16, 1951, by the Chicago Macaroni Co., from Chicago, Ill.

Product: 180 20-pound cases of spaghetti at St. Paul, Minn.

LABEL, IN PART: "Cyrilla Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1952. A default decree was entered and the court ordered that the product be denatured for use as animal feed or be destroyed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

18961. Adulteration of brewers rice. U. S. v. 293 Bags * * *. (F. D. C. No. 32680. Sample No. 15179-L.)

Libel Filed: February 27, 1952, District of Nebraska.

Alleged Shipment: On or about July 15, 1951, from British Columbia.

Product: 293 100-pound bags of brewers rice at Omaha, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent excreta. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: March 13, 1952. The Falstaff Brewing Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed or to be utilized in the making of industrial alcohol, under the supervision of the Food and Drug Administration.

18962. Adulteration of rice. U. S. v. 7 Bags * * *. (F. D. C. No. 32681. Sample No. 48297-L.)

LIBEL FILED: February 20, 1952, District of Minnesota.

^{*}See also No. 18957.

ALLEGED SHIPMENT: On or about September 28, 1951, from De Witt, Ark.

PRODUCT: 7 100-pound bags of rice at Minneapolis, Minn., in possession of the American Fruit & Produce Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 10, 1952. A default decree was entered and the court ordered that the product be denatured for use as animal feed or be destroyed.

18963. Adulteration of rice. U. S. v. 4 Bags * * *. (F. D. C. No. 32046. Sample No. 35253-L.)

LIBEL FILED: October 24, 1951, Northern District of Iowa.

ALLEGED SHIPMENT: On or about November 20, 1950, from Stuttgart, Ark.

Product: 4 100-pound bags of rice at Dubuque, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: November 26, 1951. Default decree of condemnation. The court ordered that the product be denatured and sold for use as animal feed.

18964. Adulteration of barley malt. U. S. v. 940 Bags * * * *. (F. D. C. No. 32099. Sample No. 12994–L.)

LIBEL FILED: November 16, 1951, District of Utah.

ALLEGED SHIPMENT: On or about September 11, 1951, from Milwaukee, Wis.

PRODUCT: 940 94-pound bags of barley malt at Salt Lake City, Utah, in possession of the Fisher Brewing Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine, rodent excreta, and rodent hairs; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: December 21, 1951. The Fisher Brewing Co., Salt Lake City, Utah, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

DAIRY PRODUCTS

BUTTER

18965. Adulteration of butter. U. S. v. Freeport Cooperative Creamery Assn. Plea of guilty. Fine, \$1,000. (F. D. C. No. 32707. Sample No. 18941-L.)

Information Filed: April 30, 1952, District of Minnesota, against the Freeport Cooperative Creamery Assn., Freeport, Minn.

246201--53---2

ALLEGED SHIPMENT: On April 11, 1945, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that all foods comprising each shipment or delivery made by the defendant to the holder of the guaranty would not be adulterated or misbranded within the meaning of the law.

On or about July 12, 1951, the defendant delivered under the guaranty a quantity of butter which was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the use of filth-contaminated cream in its preparation.

Disposition: May 22, 1952. A plea of guilty having been entered, the court fined the defendant \$1,000.

18966. Adulteration of butter. U. S. v. 500 Pounds * * *. (F. D. C. No. 32032. Sample No. 19269-L.)

LIBEL FILED: October 9, 1951, Northern District of Iowa.

ALLEGED SHIPMENT: On or about September 25, 1951, by the Petersburg Cooperative Creamery, from Petersburg, Minn.

PRODUCT: 500 pounds of butter at Spirit Lake, Iowa.

LABEL, IN PART: (Retail carton) "Petersburg Creamery Butter One Pound Net."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

Disposition: October 31, 1951. The Petersburg Cooperative Creamery, Jackson, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be reworked to the legal standard under the supervision of the Food and Drug Administration.

CHEESE

18967. Adulteration and misbranding of creamed cottage cheese and skim milk cheese. U. S. v. Cabot Farmers Cooperative Creamery Co., Inc. Plea of guilty. Fine, \$450. (F. D. C. No. 32742. Sample Nos. 4790–L, 4841–L, 23959–L.)

Information Filed: March 13, 1952, District of Vermont, against Cabot Farmers Cooperative Creamery Co., Inc., Cabot, Vt.

ALLEGED SHIPMENT: On or about May 10, 14, and 16, 1951, from the State of Vermont into the States of New Hampshire, Massachusetts, and New York.

LABEL, IN PART: "Rosedale Brand * * * Creamed Cottage Cheese" or "40# Creamed Cottage Cheese" and "Skim Milk Cheese."

Nature of Charge: Creamed cottage cheese. Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the food; and, Section 402 (b) (2), a product containing less than 4 percent by weight of milk fat had been substituted for creamed cottage cheese. Misbranding, Section 403 (a), the label statement "Creamed Cottage Cheese" was false and misleading since the product was not creamed cottage cheese; and, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for creamed cottage cheese since it contained less than 4 percent by weight of milk fat.

Skim milk cheese. Adulteration, Section 402 (b) (2), a product containing in excess of 50 percent moisture had been substituted for skim milk cheese. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for skim milk cheese for manufacturing since it contained more than 50 percent of moisture.

Disposition: May 27, 1952. A plea of guilty having been entered, the court fined the corporation \$450.

FISH AND SHELLFISH

18968. Adulteration of canned sardines. U. S. v. 55 Cases * * *. (F. D. C. No. 32093. Sample Nos. 16258–L, 16373–L.)

LIBEL FILED: November 2, 1951, District of South Dakota.

Alleged Shipment: On or about November 11, 1949, from Los Angeles, Calif.

Product: 55 cases, each containing 48 15-ounce cans, of sardines at Kansas City, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 16, 1952. Default decree of condemnation. The court ordered that the product be delivered to the municipal farm for use as animal feed.

18969. Adulteration of oysters. U. S. v. 1,164 Cans * * *. (F. D. C. No. 32091. Sample No. 4381-L.)

LIBEL FILED: November 15, 1951, Southern District of Illinois.

Alleged Shipment: On or about November 5, 1951, by Lancaster Seafoods, Inc., from Lively, Va.

Product: 1,164 pint cans of oysters at Galesburg, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: December 11, 1951. Default decree of condemnation and destruction.

18970. Adulteration and misbranding of oysters. U. S. v. 144 Cans, etc. (F. D. C. No. 32120. Sample Nos. 4400-L, 4401-L.)

LIBEL FILED: November 26, 1951, Western District of Kentucky.

ALLEGED SHIPMENT: On or about November 19, 1951, by the Leib Packing Co., from Baltimore, Md.

Product: 144 pint cans of oysters standards and 144 pint cans of oysters selects at Owensboro, Ky.

LABEL, IN PART: "Oysters Standards [or "Selects"] 1 Pint Sun Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters since it was not thoroughly drained, and in the preparation of the article, the total time of contact with fresh water after leaving the shucker was more than 30 minutes; and, Section 403 (e) (2), (oysters standards only) the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "1 Pint" was inaccurate.

DISPOSITION: January 18, 1952. Default decree of condemnation and destruction.

18971. Adulteration and misbranding of oysters. U. S. v. 280 Cans * * *. (F. D. C. No. 32105. Sample 3997-L.)

LIBEL FILED: November 20, 1951, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about November 14, 1951, by the Crisfield Packing Co., from Crisfield, Md.

I'roduct: 280 pint cans of oysters at Monroe, Mich.

LABEL, IN PART: "Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since it was not thoroughly drained.

DISPOSITION: January 25, 1952. Default decree of condemnation and destruction.

18972. Adulteration and misbranding of oysters. U. S. v. 160 Cans * * *. (F. D. C. No. 32591. Sample No. 26180–L.)

LIBEL FILED: On or about January 18, 1952, Northern District of Texas.

ALLEGED SHIPMENT: On or about January 8, 1952, by Port Norris Oyster Co., Inc., from Port Norris, N. J.

PRODUCT: 160 pint cans of oysters at Abilene, Tex.

Label, in Part: "Coast-Pact Oysters * * * Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since it was in contact with water for more than 30 minutes after leaving the shucker.

DISPOSITION: March 18, 1952. Default decree of condemnation and destruction.

18973. Adulteration of breaded shrimp. U. S. v. 162 Cases * * *. (F. D. C. No. 32103. Sample No. 15710-L.)

Libel Filed: On or about November 20, 1951, Western District of Missouri.

ALLEGED SHIPMENT: On or about August 7, 1951, by Hamilton Foods, Inc., from Chicago, Ill.

PRODUCT: 162 cases, each containing 24 10-ounce cartons, of breaded shrimp at Kansas City, Mo.

- LABEL, IN PART: "Hamilton Breaded Fantail Shrimp."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.
- DISPOSITION: January 16, 1952. Default decree of condemnation. The court ordered that the product be delivered to a municipal institution, for use as hog feed.
- 18974. Adulteration of canned shrimp. U. S. v. 98 Cases * * *. (F. D. C. No. 32694. Sample No. 22221–L.)
- LIBEL FILED: February 29, 1952, Northern District of Alabama.
- ALLEGED SHIPMENT: On or about January 18, 1951, by the Pelican Oyster & Fish Co., from New Orleans, La.
- Product: 98 cases, each containing 24 5-ounce cans, of shrimp at Birmingham, Ala.
- LABEL, IN PART: "Frostie Brand Medium Wet Pack Shrimp."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.
- DISPOSITION: March 20, 1952. The shipper having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration. 42 cases of the product were released to the claimant as fit for consumption and the remainder destroyed.

FRUITS AND VEGETABLES*

CANNED FRUIT

- 18975. Adulteration of canned cherries. U. S. v. 44 Cases * * *. (F. D. C. No. 33448. Sample No. 8711-L.)
- LIBEL FILED: July 1, 1952, Western District of Pennsylvania.
- ALLEGED SHIPMENT: On or about December 30, 1949, from Fruitvale, Calif.
- PRODUCT: 44 cases, each containing 24 1-pound, 13-ounce cans, of cherries at Altoona, Pa. Examination showed that the product was undergoing decomposition.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.
- Disposition: November 21, 1952. Default decree of condemnation and destruction.
- 18976. Misbranding of canned peaches. U. S. v. 398 Cases * * *. (F. D. C. No. 33042. Sample No. 41818-L.)
- LIBEL FILED: April 17, 1952, Northern District of New York.
- ALLEGED SHIPMENT: On or about March 11, 1952, by the Richmond-Chase Co., from Stockton, Calif.

^{*}See also No. 18952.

Product: 398 cases, each containing 24 1-pound, 14-ounce cans, of peaches at Schenectady, N. Y.

LABEL, IN PART: "Van Curler Brand * * * Halves Elberta Peaches In Extra Heavy Syrup * * * Fancy Grade."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peaches since it contained excessive peel and an excessive number of blemished peaches, and its label failed to bear the substandard legends; and, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the optional peach ingredient used, namely, yellow freestone.

Further misbranding, Section 403 (a), the label statement "Fancy Grade" was false and misleading since the product was below standard in quality.

DISPOSITION: June 19, 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

VEGETABLES

18977. Adulteration of dried red beans. U. S. v. 10 Bags * * *. (F. D. C. No. 33392. Sample No. 36234-L.)

LIBEL FILED: June 12, 1952, Northern District of Ohio.

ALLEGED SHIPMENT: On or about January 23, 1952, from North Kansas City, Mo.

PRODUCT: 10 100-pound bags of dried red beans at Cleveland, Ohio, in possession of the National Terminal Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent hairs; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 25, 1952. Default decree of condemnation and destruction.

18978. Misbranding of fresh mushrooms. U. S. v. Caligiuri Brothers. Plea of guilty. Fine, \$100. (F. D. C. No. 32774. Sample Nos. 26231–L, 26662–L.)

Information Filed: April 22, 1952, against Caligiuri Brothers, a partnership, Avondale, Pa.

ALLEGED SHIPMENT: On or about December 6, 1951, and January 3, 1952, from the State of Pennsylvania into the State of New York.

LABEL, IN PART: (Baskets) "Medium Caligiuri Brothers Mushrooms 3 Lbs. Net."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the baskets contained less than the labeled "3 Lbs. Net."

DISPOSITION: May 15, 1952. A plea of guilty having been entered, the court imposed a fine of \$100.

- 18979. Adulteration of canned spinach. U. S. v. 168 Cases * * * (F. D. C. No. 32693. Sample No. 16421–L.)
- LIBEL FILED: On or about March 8, 1952, District of Kansas.
- ALLEGED SHIPMENT: On or about December 10, 1951, by the Allen Canning Co., from Siloam Springs, Ark.
- PRODUCT: 168 cases, each containing 6 6-pound 2-ounce cans, of spinach at Osawatomie, Kans.
- LABEL, IN PART: "The Allens Brand."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing grass, willow and elm leaves, and large woody stems had been substituted in part for spinach.
- DISPOSITION: April 22, 1952. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

- 18980. Adulteration of canned tomatoes. U. S. v. 200 Cases * * *. (F. D. C. No. 32594. Sample No. 32660–L.)
- LIBEL FILED: January 18, 1952, Southern District of Illinois.
- ALLEGED SHIPMENT: On or about June 16, 1951, by the Brown Canning Co., from Palmetto, Fla.
- PRODUCT: 200 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Springfield, Ill.
- LABEL, IN PART: "Brown Brand."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.
- DISPOSITION: February 25, 1952. Default decree of condemnation and destruction.
- 18981. Adulteration of tomato juice. U. S. v. 446 Cases * * *. (F. D. C. No. 32620. Sample No. 32677-L.)
- LIBEL FILED: January 25, 1952, Southern District of Illinois.
- ALLEGED SHIPMENT: On or about December 11, 1951, by the Brunson Canning Co., from Alexandria, Ind.
- PRODUCT: 446 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Peoria, Ill.
- LABEL, IN PART: "Companion * * * Tomato Juice."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole in part of a filthy and decomposed substance by reason of the presence of fly eggs and decomposed tomato material; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- Disposition: February 28, 1952. Default decree of condemnation and destruction.
- 18982. Adulteration of tomato juice. U. S. v. 74 Cases * * *. (F. D. C. No. 32638. Sample No. 33298–L.)
- LIBEL FILED: January 30, 1952, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about September 12, 1951, by the Bercut-Richards Packing Co., from Sacramento, Calif.

Product: 74 cases, each containing 48 5½-ounce cans, of tomato juice at Milwaukee, Wis.

LABEL, IN PART: "Sacramento Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed that the product was decomposed.)

DISPOSITION: April 10, 1952. Default decree of condemnation and destruction. (96 cans of the product had been released previously to the shipper and the Food and Drug Administration for purposes of examination, by a court order of February 21, 1952.)

18983. Adulteration of tomato paste. U. S. v. 38,996 Cans * * *. (F. D. C. No. 32560. Sample Nos. 35767-L to 35769-L, incl.)

LIBEL FILED: March 5, 1952, Southern District of Ohio.

Alleged Shipment: On or about April 19, 1951, by Flotill Products, Inc., from New York, N. Y.

Product: 38,996 10-pound cans of tomato paste at Columbus, Ohio.

LABEL, IN PART: "Globus High Concentrated Hungarian Tomato Paste,"
"Medium Tomato Paste Triticum Brand," or "Tomato Paste * * *
Packed in Italy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 12, 1952. Default decree of destruction.

18984. Adulteration of tomato paste. U. S. v. 612 Cases, etc. (F. D. C. No. 32420. Sample Nos. 3476-L to 3478-L, incl.)

Libel Filed: January 11, 1952, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about May 8 and 11, 1951, by the Anglo-American & Overseas Corp., from Brooklyn, N. Y., and Newark, N. J.

Product: 1,741 cases, each containing 10 cans, of tomato paste at Norfolk, Va.

LABEL, IN PART: "Tomato Paste Made in Hungary 160½ Oz. Net Golden Pheasant."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Disposition: May 6, 1952. Default decree of condemnation and destruction.

18985. Adulteration of tomato puree. U. S. v. 128 Cases * * *. (F. D. C. No. 32094. Sample No. 35996-L.)

Libel Filed: November 15, 1951, Southern District of Ohio.

ALLEGED SHIPMENT: On or about September 12, 1951, by the C. H. Musselman Co., from Biglerville, Pa.

Product: 128 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at Cincinnati, Ohio.

LABEL, IN PART: "Musselman's Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 3, 1952. Default decree of condemnation and destruction.

MEAT AND POULTRY

18986. Misbranding of ham. U. S. v. Schenberg's Super Market. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 32751. Sample No. 33943-L.)

Information Filed: February 12, 1952, Eastern District of Missouri, against Schenberg's Super Market, a partnership, St. Louis, Mo.

ALLEGED VIOLATION: On or about October 27, 1951, the defendant received at St. Louis, Mo., a number of whole hams which had been shipped in interstate commerce from the State of Nebraska. While the product was being held for sale after shipment in interstate commerce, the defendant, on or about November 2, 1951, caused the labeling of the product to be altered and obliterated by causing a sticker to be affixed bearing a higher net weight statement than was on the package of ham when it was shipped in interstate commerce.

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (a), the labeling contained false and misleading statements regarding the net weight of the product.

DISPOSITION: April 11, 1952. A plea of nolo contendere having been entered, the court fined the partnership \$100.

18987. Adulteration of dressed poultry. U. S. v. 426 Boxes * * *. (F. D. C. No. 32618. Sample No. 12310-L.)

LIBEL FILED: January 23, 1952, Northern District of Ohio.

ALLEGED SHIPMENT: On or about October 23, 1951, by the Seymour Packing Co., from Greensburg, Ind.

PRODUCT: 426 boxes, each containing from 38 to 59 pounds, of dressed poultry at Cleveland, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: April 10, 1952. The Seymour Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. 147 birds were rejected and denatured.

18988. Adulteration of frozen chicken gizzards. U. S. v. 23 Boxes * * *. (F. D. C. 32595. Sample No. 34218-L.)

LIBEL FILED: January 16, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 3, 1952, by Poultry Enterprises, Inc., from Gainesville, Ga.

Product: 23 5-pound boxes of frozen chicken gizzards at Memphis, Tenn.

LABEL, IN PART: "Five Pounds Martin's Fresh Frozen Cut-Up Chicken Pieces Gizzards."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt, feathers, and wood particles.

DISPOSITION: March 10, 1952. Default decree of condemnation and destruction.

NUTS

18989. Adulteration of brazil nuts. U. S. v. 20 Bags * * *. (F. D. C. No. 32024. Sample No. 25963–L.)

LIBEL FILED: November 16, 1951, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 8, 1951, by A. J. Trucco, from New York, N. Y.

PRODUCT: 20 100-pound bags of brazil nuts at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and otherwise decomposed nuts.

DISPOSITION: January 3, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. 1,656 pounds of the product were salvaged.

18990. Adulteration of shelled peanuts. U.S.v. 6 Bags * * * (and 1 other seizure action). (F. D. C. No. 32057. Sample Nos. 29635-L, 30064-L.)

LIBELS FILED: November 6 and 7, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about January 4 and July 28, 1951, from Suffolk, Va., and Dallas, Tex.

Product: 73 bags, each containing 120 pounds, of shelled peanuts at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: November 29, 1951. The Heck Specialty Co., Seattle, Wash., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 903 pounds of the product were denatured and 7,857 pounds released to the claimant.

18991. Adulteration of pecan pieces. U. S. v. 17 Cases * * *. (F. D. C. No. 32066. Sample No. 19529–L.)

LIBEL FILED: November 6, 1951, District of Minnesota.

ALLEGED SHIPMENT: On or about September 10, 1951, from Chicago, Ill.

Product: 17 30-pound cases of pecan pieces at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: December 4, 1951. The Ace Pecan Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reprocessing under the supervision of the Food and Drug Administration. Reprocessing operations were found to be not feasible, and the product was destroyed.

18992. Adulteration of unshelled walnuts. U. S. v. 25 Bags * * *. (F. D. C. No. 32098. Sample No. 30275-L.)

Libel Filed: November 14, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about October 13, 1951, by the California Walnut Growers Assn., from Los Angeles, Calif.

PRODUCT: 25 100-pound bags of unshelled walnuts at Seattle, Wash.

LABEL, IN PART: "California Emerald Brand Walnuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insectinfested walnuts, and of a decomposed substance by reason of the presence of moldy and rancid walnuts.

DISPOSITION: January 4, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 1,081 pounds were salvaged, and the rejected portion was denatured into stock oil.

18993. Adulteration of shelled walnuts. U. S. v. 23 Cartons * * *. (F. D. C. No. 32616. Sample No. 35334-L.)

LIBEL FILED: January 23, 1952, District of South Dakota.

ALLEGED SHIPMENT: On or about September 26, 1951, by the California Walnut Growers Assn., from Los Angeles, Calif.

Product: 23 25-pound cartons of shelled walnuts at Sioux Falls, S. Dak.

LABEL, IN PART: "California Suntan Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nut meats.

DISPOSITION: January 29, 1952. The sole intervener having consented to the entry of a decree, judgment of condemnation and destruction was entered.

18994. Adulteration of shelled walnuts. U. S. v. 7 Boxes * * *. (F. D. C. No. 32613. Sample No. 34946–L.)

Libel Filed: January 18, 1952, Western District of Wisconsin.

ALLEGED SHIPMENT: September 26, 1951, from Duluth, Minn.

Product: 7 25-pound bags of shelled walnuts at Madison, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and otherwise decomposed nut meats. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 13, 1952. A default decree of forfeiture was entered ordering that the product be denatured for use other than for human consumption or be destroyed.

18995. Adulteration of unshelled walnuts. U. S. v. 1 Bag * * *. (F. D. C. No. 32623. Sample No. 35445-L.)

LIBEL FILED: January 23, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: On or about October 30, 1951, from Santa Clara, Calif.

PRODUCT: 1 100-pound bag of unshelled walnuts at Des Moines, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy walnuts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 10, 1952. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

18996. Adulteration of cumin seed. U. S. v. 40 Bags * * *. (F. D. C. No. 32193. Sample No. 38481-L.)

LIBEL FILED: On or about November 29, 1951, Southern District of New York. Alleged Shipment: On or about May 9, 1951, from Bombay, India.

PRODUCT: 40 bags, each containing 100 pounds, of cumin seed at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: December 17, 1951. Default decree of condemnation and destruction.

18997. Adulteration of sesame seed. U. S. v. 17 Sacks * * *. (F. D. C. No. 32048. Sample No. 27087-L.)

LIBEL FILED: October 31, 1951, Northern District of California.

Alleged Shipment: On or about March 16, 1951, from Managua, Nicaragua.

PRODUCT: 17 sacks, each containing 100 pounds, of sesame seed at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

Disposition: November 28, 1951. Adolph Schoenfeld, San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration. As a result of reconditioning, 1,697 pounds of cleaned seed were recovered and 8 pounds of waste were destroyed.

18998. Adulteration of sesame seed. U. S. v. 1 Drum * * *. (F. D. C. No. 32667. Sample No. 35506–L.)

LIBEL FILED: February 13, 1952, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about November 25, 1951, from Baltimore, Md.

Product: 1 200-pound drum of sesame seed at Wausau, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: April 8, 1952. A default decree of forfeiture was entered ordering that the product be denatured for use as animal feed.

18999. Adulteration and misbranding of black pepper and misbranding of blended black pepper. U. S. v. 3 Cases, etc. (F. D. C. No. 32514. Sample Nos. 31511-L to 31513-L, incl.)

LIBEL FILED: February 12, 1952, Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of October 17 and December 10, 1951, by the Arrow Spice & Food Co., from Dallas, Tex.

PRODUCT: Black pepper. 3 cases, each containing 48 1-pound cans, and 26 cases, each containing 4 6-pound cans, at St. Louis, Mo.

LABEL, IN PART: "Topmost Brand Pure Ground Black Pepper" and "Black Jack Brand Blended Black Pepper."

NATURE OF CHARGE: Topmost Brand. Adulteration, Section 402 (b) (2), a mixture of black pepper and cottonseed hulls had been substituted for pure black pepper. Misbranding, Section 403 (a), the label designation "Pure * * * Black Pepper" was false and misleading since the product was a mixture of black pepper and cottonseed hulls.

Black Jack Brand. Misbranding, Section 403 (a), the label designation "Blended Black Pepper" was false and misleading since the product was a mixture of cottonseed hulls, black pepper, wheat fragments, and capsicum; and, Section 403 (c), the product was an imitation of another food, and its label failed to bear the word "imitation" and immediately thereafter the name of the food imitated.

DISPOSITION: April 17, 1952. The Arrow Spice & Food Co., Dallas, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was relabeled.

19000. Adulteration and misbranding of prepared horseradish. U. S. v. 17 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30719, 30720. Sample Nos. 6873-L, 6881-L.)

LIBELS FILED: March 21, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 1, 1950, and February 2 and 19, 1951, by the Bronx Home Food Products, from New York, N. Y.

PRODUCT: 31 cases, each containing 24 bottles, of prepared horseradish at Pittsburgh, Pa.

LABEL, IN PART: "Bronx Home Pure Prepared Horse Radish H. Treffinger, Bronx, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially flavored mixture of grated horseradish and grated parsnip roots had been substituted for horseradish; and, Section 402 (b) (4), artificial flavor had been added to the product and mixed and packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the label designation "Pure Prepared Horse Radish" was false and misleading since the product was an artificially flavored mixture of grated horseradish and grated parsnip roots.

DISPOSITION: February 14, 1952. Default decrees of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 18951 TO 19000 PRODUCTS

N. J. No	N. J. No.
Barley malt 18964	Meat and poultry 18986-18988
Beans, red, dried 18977	
Beverages and beverage mate-	Noodles. See Macaroni and noo-
rials ¹ 18951, 18952	dle products.
Brazil nuts 18989	Nuts 18989–18995
Brewers rice 18961	Orange beverage 18952
Butter 18965, 18966	Oysters 18969–18972
Cereals and cereal products 18953-	Pastry flour 18957
18964	Peaches, canned 18976
Cheese, cottage, creamed, and	Peanuts, shelled 18990
skim milk cheese 18967	Pecan pieces 18991
Cherries, canned 18975	Pepper, black, and blended black
Chickens, etc. See Meat and	pepper 18999
poultry.	Poultry. See Meat and poultry.
Coffee sweepings ¹ 18951	
Cottage cheese, creamed 18967	
Cumin seed 18996	
Dairy products 18965-18967	
Fish and shellfish 18968–18974	Shellfish. See Fish and shellfish.
Flavors. See Spices, flavors, and	Shrimp, breaded 18973
seasoning materials.	canned 18974
Flour 18953–18957	
Fruits and vegetables18952,	_
18975–18985	
fruit, canned 18975, 18976	
tomatoes and tomato prod-	Spinach, canned 18979
ucts 18980–18985	
vegetables 18977–18979	,
Gizzards, chicken, frozen 18988	
Ham 18986	_
Horseradish, prepared19000	
Macaroni and noodle products_ 18958-	
Malt barder 1996	,
Malt, barley 18964	unshelled 18992, 18995

¹ (18951) Seizure contested. Contains opinions of the courts.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

· N.	J. No.	N.	J. No.
Allen Canning Co.:		Freeport Cooperative Creamery	
canned spinach	18979	Assn.:	
American Fruit & Produce Co.:		butter	18965
rice	18962	General Foods Corp.:	
Anglo-American & Overseas		coffee sweepings	18951
Corp.:		Greer, Autry, & Sons:	
tomato paste	18984	flour	18954
Arrow Spice & Food Co.:		Hamilton Foods, Inc.:	
black pepper and blended black		breaded shrimp	18973
pepper	18999	Hong Kong Noodle Co., Inc.:	
Barnett Grocery Co.:		Chinese dried noodles 18958	, 18959
flour	18955		
Bercut-Richards Packing Co.:		oysters	18969
tomato juice	18982	Leib Packing Co.:	
Bronx Home Food Products:		oysters	18970
prepared horseradish	19000	Musselman, C. H., Co.:	
Brown Canning Co.:		tomato puree	18985
canned tomatoes	18980	National Terminal Warehouse:	0
Brunson Canning Co.:		dried red beans	18977
tomato juice	18981	Pelican Oyster & Fish Co.:	
Cabot Farmers Cooperative		canned shrimp	
Creamery Co., Inc.:		Petersburg Cooperative Cream-	
creamed cottage cheese and		ery:	10000
skim milk cheese	18967	butter	18966
California Walnut Growers		Port Norris Oyster Co., Inc.:	1.0070
Assn.:		Oysters	18912
walnuts, shelled	1 2002	Poultry Enterprises, Inc.:	10000
		frozen chicken gizzards	10900
unshelled	18992	Quad City Juice Co.:	1.0050
Caligiuri Brothers:	10050	orange beverage Richmond-Chase Co.:	10992
fresh mushrooms	18978	canned peaches	18976
Chicago Macaroni Co.:	•	Schenberg's Super Market:	10010
spaghetti	18960	ham	18986
Crisfield Packing Co.:		Seymour Packing Co.:	10000
oysters	18971	dressed poultry	18987
Ellis Canning Co.:		Treffinger, H.:	10001
flour	18953	prepared horseradish	19000
Fisher Brewing Co.:		Trucco, A. J.:	20000
barley malt	18964	brazil nuts	18989
Flotill Products, Inc.:	100	Witwer Grocer Co.:	
tomato paste	18983		18956

¹ (18951) Seizure contested. Contains opinions of the courts.

THE R. P. LEWIS CO., LANSING, MICH. 49-14039.



The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year



U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19001-19050

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the United States Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, Commissioner of Food and Drugs. Washington, D. C., May 4, 1953.

CONTENTS

	Page		Page
Candy, chocolate, and sirup	2	Fruits and vegetables—Continued	
Candy	2	Frozen fruit	11
Chocolate	3	Miscellaneous fruit products	12
Sirup	3	Vegetables and vegetable prod-	
Cereals and cereal products		ucts	13
Flour	. 5	Tomatoes and tomato products	15
Miscellaneous cereals	. 5	Meat and poultry	16
Dairy products	6	Nuts and nut products	17
Butter	6	Oils and fats	18
Cheese	7	Spices, flavors, and seasoning ma-	
Fish and shellfish	7	terials	19
Fruits and vegetables	9	Miscellaneous foods	20
Canned fruit	. 9	Index	21
Dried fruit	10		

1

CANDY, CHOCOLATE, AND SIRUP

CANDY

19001. Adulteration of candy. U. S. v. 57 Cases * * *. (F. D. C. No. 32944. Sample No. 9342–L.)

LIBEL FILED: March 14, 1952, Northern District of Illinois.

ALLEGED SHIPMENT: On or about February 20, 1952, by Luden's, Inc., from Reading, Pa.

Product: Candy bars. 57 cases, each containing 100 candy bars at Chicago, Ill.

LABEL, IN PART: (Bar) "Almond Royal Milk Chocolate Net Wt. 11/3 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 11, 1952. Default decree of condemnation and destruction.

19002. Adulteration of candy. U. S. v. 30 Cases * * * (F. D. C. No. 33047. Sample No. 16137-L.)

LIBEL FILED: April 3, 1952, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about February 4, 1952, by Martha Jane Candies, Inc., from Waco, Tex.

PRODUCT: 30 cases, each containing 24 10-ounce bags, of candy at Elk City, Okla.

LABEL, IN PART: (Bags) "Martha Jane Fine Candies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 9, 1952. Default decree of condemnation and destruction.

19003. Adulteration of candy. U. S. v. 12 Pails * * *. (F. D. C. No. 33068. Sample No. 8384–L.)

LIBEL FILED: April 12, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about March 7, 1952, by the Rodda Candy Co., from Lancaster, Pa.

Product: 12 15-pound pails of candy at Utica, N. Y.

Label, in Part: "Williams Superfine Brand Chocolate Cream Drops."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: May 13, 1952. Default decree of condemnation and destruction.

CHOCOLATE

19004. Adulteration of chocolate. U. S. v. 14 Bags * * *. (F. D. C. No. 33098. Sample No. 12346-L.)

LIBEL FILED: April 28, 1952, Northern District of Ohio.

ALLEGED SHIPMENT: On or about May 20, 1947, from Brooklyn, N. Y.

PRODUCT: 14 bags, each containing 20 10-pound slabs, of chocolate at Berea, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 26, 1952. Default decree of condemnation and destruction.

SIRUP

19005. Misbranding of sorghum sirup. U. S. v. Charles H. Owen & Charles R. Owen, a partnership, and Charles H. Owen and Charles R. Owen, individuals. Plea of guilty to 2 counts by Charles H. Owen; fine of \$200 and sentence of 60 days in jail. Plea of guilty to 3 counts by Charles R. Owen; fine of \$300 and sentence of 90 days in jail. Jail sentences suspended and both individual defendants placed on probation for 1 year. (F. D. C. No. 31268. Sample Nos. 77956-K, 77957-K, 11472-L, 11475-L.)

Information Filed: November 24, 1951, Western District of Missouri, against Charles H. Owen & Charles R. Owen, a partnership, Joplin, Mo., and Charles H. Owen and Charles R. Owen, individuals.

Interstate Shipment: On or about November 9 and 28, 1950, a number of cans of sirup labeled, in part, "New Crop Syrup A Sorghum Flavor Blend of Cane Sugar Syrup, Corn Syrup, Molasses and Sorghum Syrup," were transported and shipped in interstate commerce from Jefferson, Tex., to Joplin, Mo., by Charles R. Owen.

Alleged Violation: On or about December 1, 1950, while the sirup was being held for sale after shipment in interstate commerce, the defendants removed and caused the removal of the labels from a portion of the cans and relabeled the cans, in part, "Sorghum Syrup Made of Cane Products Made For and Sold by C. H. Owen Joplin, Missouri," which acts resulted in the sirup in the relabeled cans being misbranded.

The information charged also that on or about February 5, 1951, the defendants shipped from the State of Missouri into the State of Tennessee a number of cans of sirup labeled, in part, "Pure Sorghum," which was misbranded.

NATURE OF CHARGE: Misbranding, Section 403 (a), the statements "Pure Sorghum" and "Sorghum," borne on the labels, were false and misleading since the article was not sorghum; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

Further misbranding (portions), Section 403 (b), the article was offered for sale under the name of another food; and, Sections 403 (e) (1) and (2), the article was in package form and failed to bear a label containing the name and

place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents.

Disposition: May 26, 1952. A plea of guilty having been entered by Charles H. Owen to counts 4 and 6 of the information charging the relabeling of the product after shipment in interstate commerce, the court imposed a fine of \$200 and a sentence of 60 days in jail. A plea of guilty having been entered also by Charles R. Owen to the same counts and to count 2 charging the interstate shipment of misbranded sirup, the court imposed a fine of \$300 and a sentence of 90 days in jail. The jail sentences were suspended, however, and the defendants were placed on probation for 1 year. Counts 1, 3, and 5 of the information were dismissed.

19006. Adulteration and misbranding of sorghum sirup. U. S. v. 14 Cases, etc. (F. D. C. No. 32475. Sample No. 31607-L.)

LIBEL FILED: March 19, 1952, Eastern District of Illinois.

Alleged Shipment: On or about January 14, 1952, by Roy Lansaw, from Joplin, Mo.

Product: 14 cases, each containing 12 64-ounce cans, and 6 cases, each containing 12 cans, of sirup, and 100 loose labels entitled "Pure Hancock County Sorghum" at Benton, Ill.

LABEL, IN PART: (14 cases) "New Crop Syrup A Sorghum Flavor Blend of Cane Sugar Syrup, Corn Syrup, Molasses and Sorghum Syrup"; (6 cases) "Pure Hancock County Sorghum E. D. Brown Rt. 2 Patesville, Ky."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sugar sirup, glucose, and sorghum had been substituted for sorghum and was being sold and held for sale as pure sorghum after shipment in interstate commerce.

Misbranding, Section 403 (a), the label designation "Pure * * * Sorghum" was false and misleading since the product was a mixture of sugar sirup, glucose, and sorghum. (Six cases were labeled as pure sorghum, and the other 14 cases, although bearing labels as "New Crop Syrup" as appears above, were to be labeled "Pure Sorghum" with the loose labels which were transported with the product.)

Further misbranding (6-case lot), Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, since it was not manufactured, packed, or distributed by E. D. Brown, Route 2, Patesville, Ky., and since its label bore no statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: May 16, 1952, amended July 15. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

19007. Misbranding of sorghum sirup. U. S. v. 109 Cans * * * *. (F. D. C. No. 33078. Sample Nos. 34242–L, 34255–L.)

LIBEL FILED: April 22, 1952, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 15, 1952, from Thrasher, Miss.

Product: 109 4½-pound cans of sirup at McKenzie, Tenn.

LABEL, IN PART: "Honey Drip Sorghum Flavored and Blended Contains: Corn Syrup, Sugar Syrup and Cane Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Honey Drip Sorghum" was false and misleading since the product was a mixture of sugar sirup and corn sirup, with approximately 10 percent of cane or sorghum sirup. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: May 29, 1952. Default decree of condemnation. The court ordered that the product be delivered to a county institution.

CEREALS AND CEREAL PRODUCTS

FLOUR

19008. Adulteration of flour. U. S. v. 38 Bags * * * *. (F. D. C. No. 33059. Sample No. 35584–L.)

LIBEL FILED: April 9, 1952, Northern District of Iowa.

ALLEGED SHIPMENT: On or about December 11, 1951, from Minneapolis, Minn.

Product: 38 50-pound bags of flour at Mason City, Iowa, in possession of the Witwer Grocer Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 9, 1952. Default decree of condemnation. The court ordered that the product be delivered to a county institution, for use as animal feed.

MISCELLANEOUS CEREALS

19009. Adulteration of unpopped popcorn. U. S. v. 164 Bags * * *. (F. D. C. No. 33072. Sample No. 6830–L.)

LIBEL FILED: April 14, 1952, Western District of New York.

ALLEGED SHIPMENT: On or about December 5, 1951, by the Pelton Popcorn Co., from Bloomdale, Ohio.

Product: 164 100-pound bags of unpopped popcorn at Rochester, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 16, 1952. Rochester Maid, Inc., Rochester, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

19010. Adulteration of unpopped popcorn. U. S. v. 162 Cases * * *. (F. D. C. No. 33104. Sample No. 6831–L.)

LIBEL FILED: April 25, 1952, Western District of New York.

- ALLEGED SHIPMENT: On or about January 30 and February 15, 1952, by the Better Taste Popcorn Co., from Anderson, Ind.
- PRODUCT: 162 cases, each containing 24 10-ounce cans, of unpopped popcorn at Geneva, N. Y.
- Label, in Part: (Cans) "Davis * * * Popcorn."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs.
- DISPOSITION: May 26, 1952. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

- 19011. Adulteration of butter. U. S. v. 115 Boxes * * *. (F. D. C. No. 33157. Sample Nos. 7693–L, 7694–L.)
- LIBEL FILED: March 4, 1952, Western District of New York.
- ALLEGED SHIPMENT: On or about February 22, 1952, by Beaver Meadow Creamery, Inc., from Du Bois, Pa.
- Product: 115 boxes, each containing approximately 65 pounds, of butter at Buffalo, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION: March 10, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency.
- 19012. Adulteration of butter. U. S. v. 6 Cartons * * *. (F. D. C. No. 31488-A. Sample No. 49749-L.)
- LIBEL FILED: September 16, 1952, Southern District of New York.
- Alleged Shipment: On or about September 6, 1952, by the Farmers Cooperative Creamery Assn., from Avoca, Iowa.
- PRODUCT: 6 cartons, each containing 65 pounds, of butter at New York, N. Y.
- LABEL, IN PART: "Butter Breakstone Bros., Inc. Distributors New York."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which is required by law to contain not less than 80 percent by weight of milk fat.
- DISPOSITION: October 6, 1952. Breakstone Bros., Inc., New York, N. Y., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be reworked under the supervision of the Food and Drug Administration so that it would comply with the law.

CHEESE

- 19013. Adulteration and misbranding of process cheese. U. S. v. 7 Cases, etc. (F. D. C. 33026. Sample Nos. 35464-L, 35465-L.)
- LIBEL FILED: April 10, 1952, Southern District of Iowa.
- ALLEGED SHIPMENT: On or about January 16, 1952, by L. D. Schreiber & Co., from Green Bay, Wis.
- PRODUCT: 7 cases, each containing 20 ½-pound packages, of process American cheese, and 19 cases, each containing 20 ½-pound packages, of process pimento cheese, at Des Moines, Iowa.
- Label, in Part: "Schreiber's * * * Pasteurized Process American [or "Pimento"] Cheese."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the products contained an added poisonous and deleterious substance, dehydroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the foods and can be avoided by good manufacturing practice.

Misbranding, Section 403 (g) (1), the products purported to be and were represented as "Pasteurized Process American Cheese" and "Pasteurized Process Pimento Cheese," and they failed to conform to the definitions and standards of identity for such cheeses since they contained dehydroacetic acid, which is not permitted as an ingredient of the cheeses in the definitions and standards.

- Disposition: May 13, 1952. Default decree of condemnation and destruction.
- 19014. Misbranding of Cheddar cheese. U. S. v. 15 Cartons * * * (F. D. C. No. 33118. Sample No. 14922–L.)
- LIBEL FILED: On or about May 20, 1952, Western District of Missouri.
- ALLEGED SHIPMENT: On or about March 28, 1952, by the Whiting Cheese Factory, from Whiting, Kans.
- Product: Cheddar cheese. 15 cartons, each containing 4 cheeses weighing approximately 814 pounds, at St. Joseph, Mo.
- NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for Cheddar cheese since it contained more than 39 percent of moisture.
- DISPOSITION: July 14, 1952. A default decree was entered ordering the product delivered to charitable institutions.

FISH AND SHELLFISH

- 19015. Adulteration of canned sardines. U. S. v. 49 Cases * * * (F. D. C. No. 32996. Sample No. 4424-L.)
- LIBEL FILED: April 17, 1952, Eastern District of North Carolina.
- ALLEGED SHIPMENT: On or about November 9, 1951, by the Quality House Specialties Corp., from New York, N. Y.
- PRODUCT: 49 cases, each containing 100 31/4-ounce cans, of sardines at Ahoskie, N. C.
- LABEL, IN PART: "Cory Brand Quality Sardines."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: May 21, 1952. Default decree of condemnation and destruction.

19016. Adulteration of frozen tullibees. U. S. v. 55 Boxes * * * (F. D. C. No. 33084. Sample No. 48752–L.)

LIBEL FILED: April 19, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about March 31, 1952, by the Canadian Fish Producers, from Winnipeg, Canada.

Product: 55 boxes, each containing 125 pounds, of frozen tullibees at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: May 19, 1952. Canadian Fish Producers, Ltd., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

19017. Adulteration of frozen tullibees. U. S. v. 34 Boxes * * * (F. D. C. No. 33081. Sample No. 48751-L.)

LIBEL FILED: April 17, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about February 25, 1952, by the Kozloff Fish Co., from Detroit, Mich.

PRODUCT: 34 boxes, each containing 125 pounds, of frozen tullibees at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: May 21, 1952. Olsen's, Inc., trading as the Olsen Fish Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured for use as animal feed, under the supervision of the Federal Security Agency.

19018. Misbranding of canned tuna. U. S. v. 47 Cases * * * (F. D. C. No. 33003. Sample No. 33873–L.)

LIBEL FILED: April 9, 1952, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 30, 1952, by the Wilbur-Ellis Co., from Brooklyn, N. Y.

Product: 47 cases, each containing 48 cans, of tuna at Chicago, Ill.

LABEL, IN PART: "Net Contents 7 Oz. Avd. Fair Wind Brand Fancy Solid Pack Imported Light Meat Tuna Product of Peru Distributed By Industrial Pesquera, S. A., Callo, Peru."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Fancy Solid Pack Imported * * * Product of Peru Distributed By Industrial Pesquera, S. A., Callo, Peru" were false and misleading since the product was not fancy quality; some of the cans contained flaked tuna; the article was not imported; it was not a product of Peru; and it was not distributed by Industrial Pesquera, S. A., Callo, Peru.

Further misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents. (The cans contained less than 7 ounces of tuna.)

- DISPOSITION: May 15, 1952. The Wilbur-Ellis Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.
- 19019. Adulteration and misbranding of oysters. U. S. v. Irvington Fish & Oyster Co., Inc., and Andrew T. Sisson and James B. Sisson. Pleas of guilty. Corporation fined \$360; each individual defendant fined \$2.50. (F. D. C. No. 32786. Sample Nos. 2992-L, 2993-L, 2996-L, 2997-L, 3819-L, 4214-L, 4380-L, 4382-L, 4383-L.)
- INFORMATION FILED: July 22, 1952, Eastern District of Virginia, against Irvington Fish & Oyster Co., Inc., Irvington, Va., and Andrew T. Sisson, plant manager, and James B. Sisson, plant superintendent.
- ALLEGED SHIPMENT: Between the approximate dates of November 5 and December 17, 1951, from the State of Virginia into the States of Tennessee, Indiana, North Carolina, and Illinois.
- LABEL, IN PART: "King Carter Brand Oysters," "Irvington Brand Salt Water Oysters" or "Capitol Brand Oysters * * * Capitol Distributing Co. Inc. Indianapolis, Ind."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the oysters and mixed and packed with them so as to increase their bulk and weight and reduce their quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters since they were in contact with water in excess of the time permitted by the standard; they were not thoroughly drained, as required by the standard; and they were packed with added water in violation of the standard.

DISPOSITION: October 6, 1952. Pleas of guilty having been entered, the corporation was fined \$360 and each individual defendant was fined \$2.50.

FRUITS AND VEGETABLES

CANNED FRUIT

19020. Adulteration of canned boysenberries. U.S. v. 7 Cases * * *. (F. D. C. No. 33070. Sample No. 48795-L.)

LIBEL FILED: May 1, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about August 7, 1950, from Salem, Oreg.

PRODUCT: 7 cases, each containing 24 1-pound cans, of boysenberries at Little Falls, Minn.

249533—53——2

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 13, 1952. A default decree was entered ordering the product denatured for use as animal feed or destroyed. It was destroyed.

DRIED FRUIT

19021. Adulteration of dried mixed fruit. U. S. v. 74 Cases * * *. (F. D. C. No. 33020. Sample No. 41872–L.)

LIBEL FILED: April 8, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 29, 1952, by the Richmond-Chase Co., from San Jose, Calif.

PRODUCT: 74 cases, each containing 24 12-ounce packages, of dried mixed fruit at Springfield, Mass.

LABEL, IN PART: "Golden Bloom California Dried Fruits Fancy Mixed Fruits * * * Packed By Rosenberg Bros. & Co., Inc., San Francisco, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: June 30, 1952. Rosenberg Bros. & Co., Inc., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed to eliminate all filth under the supervision of the Federal Security Agency. 645 pounds of the product were salvaged and 455 pounds were denatured for use as animal feed.

19022. Adulteration of dried mixed fruit. U. S. v. 44 Cases * * *. (F. D. C. No. 33112. Sample No. 27281–L.)

LIBEL FILED: May 1, 1952, District of Hawaii.

ALLEGED SHIPMENT: On or about April 9, 1952, by Rosenberg Bros. & Co., Inc., from San Francisco, Calif.

PRODUCT: 44 cases, each containing 24 1-pound packages, of dried mixed fruit at Honolulu, T. H.

LABEL, IN PART: "Sugaripe Mixed Fruit California Dried Fruit."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect excreta, and rodent excreta; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 10, 1952. The sole intervener having consented to the entry of a decree, judgment of condemnation and destruction was entered.

- 19023. Adulteration of dried apricots. U. S. v. 172 Cases * * *. (F. D. C. No. 33058. Sample No. 16598–L.)
- LIBEL FILED: On or about April 11, 1952, Northern District of Oklahoma.
- ALLEGED SHIPMENT: On or about February 29, 1952, by Rosenberg Bros. & Co., Inc., from Santa Clara, Calif.
- Product: 172 cases, each containing 24 12-ounce packages, of dried apricots at Tulsa, Okla.
- LABEL, IN PART: "Glenview Brand California Dried Large Apricots."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: June 3, 1952. Rosenberg Bros. & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. Attempts were made to recondition the product, but since the results were unsatisfactory, 2,044 pounds under seizure were denatured for use as animal feed.
- 19024. Adulteration of dates. U. S. v. 250 Boxes * * *. (F. D. C. No. 33073. Sample No. 35391–L.)
- LIBEL FILED: April 14, 1952, Southern District of Iowa.
- ALLEGED SHIPMENT: On or about December 6, 1951, from New York Harbor, N. J.
- Product: 250 55-pound boxes of dates at Des Moines, Iowa.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: July 8, 1952. Default decree of condemnation and destruction. The product was used for hog feed.

FROZEN FRUIT

- 19025. Adulteration of frozen strawberries. U. S. v. 155 Cans * * *. (F. D. C. No. 33065. Sample No. 13334-L.)
- LIBEL FILED: April 23, 1952, District of Colorado.
- ALLEGED SHIPMENT: On or about February 15 and March 22, 1952, by Steffen's Dairy Foods Co., from Wichita, Kans.
- Product: 155 cans of frozen strawberries at Denver, Colo.
- LABEL, IN PART: "Strawberries 4 plus 1 Net Wt. 28 Lb. Ensley and George Processing Co. Springdale, Ark."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy berries.

Disposition: June 25, 1952. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be delivered to a Federal institution, for use as animal feed.

MISCELLANEOUS FRUIT PRODUCTS*

19026. Adulteration of apple juice and tomato juice cocktail. U. S. v. 54 Cases, etc. (F. D. C. No. 33061. Sample Nos. 8366-L, 8367-L.)

LIBEL FILED: April 11, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about April 18, 1949, from Matawan, N. J.

Product: 54 Cases, each containing 96 6-ounce cans, of apple juice, and 55 cases, each containing 48 6-ounce cans, of tomato juice cocktail at Utica, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances. (Examination disclosed that the products were decomposed.) The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 13, 1952. Default decree of condemnation and destruction.

19027. Adulteration of cherry juice. U. S. v. 19 Cases * * *. (F. D. C. No. 33107. Sample No. 8387-L.)

LIBEL FILED: April 30, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about September 26, 1949, from St. Johnsbury, Vt.

Product: 19 cases, each containing 24 12-ounce cans, of cherry juice at Utica, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed that the product was undergoing decomposition.) The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 5, 1952. Default decree of condemnation and destruction.

19028. Adulteration of grape nectar. U. S. v. 48 Cases * * * (F. D. C. No. 32895. Sample No. 22465-L.)

LIBEL FILED: March 20, 1952, Southern District of Texas.

ALLEGED SHIPMENT: On or about October 10, 1951, by Butterfield Canning Co., Inc., from Warren, Ind.

Product: 48 cases, each containing 12 1-quart, 14-ounce cans, of grape nectar at Houston, Tex. Analysis showed that the product contained approximately 23 parts per million of monochloracetic acid.

LABEL, IN PART: (Can) "Val-Sweet Grape Nectar Packed By Val-Sweet Company, San Francisco, California."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: June 24, 1952. Default decree of condemnation and destruction.

^{*}See also No. 19043.

- 19029. Misbranding of fruit jelly. U. S. v. 100 Cases, etc. (F. D. C. No. 32964. Sample Nos. 48572-L to 48574-L, incl., 48576-L, 48577-L.)
- LIBEL FILED: March 20, 1952, District of North Dakota.
- Alleged Shipment: On or about January 31, 1952, by the Oelerich & Berry Co., from Chicago, Ill.
- Product: 330 cases, each containing 24 S-ounce jars, of fruit jelly at Fargo, N. Dak.
- LABEL, IN PART: "Oelerich Old Manse * * * Old Fashioned Pure Concord Grape [or "Crabapple," "Plum," "Red Raspberry," or "Cherry"] Jelly."
- Nature of Charge: Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for fruit jellies since the products, other than 100 cases of grape jelly, were made from mixtures composed of less than 45 parts by weight of the respective fruit juice ingredients (crab apple, plum, red raspberry, and cherry) to each 55 parts by weight of the saccharine ingredients, and the soluble-solids content of each of the articles, including grape jelly, was less than 65 percent.
- DISPOSITION: May 8, 1952. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be delivered to charitable institutions.

VEGETABLES AND VEGETABLE PRODUCTS

- 19030. Adulteration of navy beans. U. S. v. 24 Bags, etc. (F. D. C. No. 33025. Sample Nos. 3899–L, 3900–L, 4418–L, 4419–L.)
- LIBEL FILED: April 9, 1952, Eastern District of Virginia.
- ALLEGED SHIPMENT: On or about October 2, 1950, from Detroit and Bay Port, Mich.
- PRODUCT: 67 100-pound bags of navy beans at Blackstone, Va., in possession of the Barrow Grocery Co.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: July 31, 1952. Default decree of condemnation. The court ordered that the product be delivered to a State institution. The product was used for stock feed.
- 19031. Misbranding of lentils. U. S. v. 32 Cases * * * *. (F. D. C. No. 33052. Sample No. 34622–L.)
- LIBEL FILED: April 7, 1952, Eastern District of Missouri.
- ALLEGED SHIPMENT: On or about February 8, 1952, by the Washburn-Wilson Seed Co., from Phelps, N. Y.
- PRODUCT: 32 cases, each containing 24 1-pound packages, of lentils at St. Louis, Mo.
- LABEL, IN PART: (Package) "Washburn's Fancy Lentils."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Fancy" was false and misleading as applied to an article which contained stones, dirt, and foreign plant material.

DISPOSITION: May 1, 1952. The Washburn-Wilson Seed Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Of the 57 cases which were seized, 1,359 pounds of beans were salvaged and 9 pounds of extraneous material and poor quality beans were destroyed.

19032. Adulteration of canned spinach. U. S. v. 398 Cases * * *. (F. D. C. No. 31723. Sample No. 22982-L.)

LIBEL FILED: September 21, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about June 26, 1951, by Flotill Products, Inc., from Stockton, Calif.

PRODUCT: 398 cases, each containing 6 6-pound, 2-ounce cans, of spinach at New York, N. Y.

LABEL, IN PART: (Can) "Royal Scarlet Fancy Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of aphids.

DISPOSITION: November 28, 1951. Default decree of condemnation and destruction.

19033. Adulteration of Chicos (fried beans). U. S. v. 19 Cases * * * (F. D. C. No. 33060. Sample No. 8368-L.)

LIBEL FILED: April 12, 1952, Northern District of New York.

ALLEGED SHIPMENT: On or about February 1, 1945, from Orange, N. J.

PRODUCT: 19 cases, each containing 54 6-ounce packages, of Chicos (fried beans) at Utica, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 13, 1952. Default decree of condemnation and destruction.

19034. Adulteration of sweet pickles. U. S. v. 2 Barrels * * *. (F. D. C. No. 33110. Sample Nos. 31550–L, 53331–L.)

LIBEL FILED: April 30, 1952, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about April 3, 1952, by Holsum Products, from Milwaukee, Wis.

PRODUCT: 2 barrels of sweet pickles at St. Louis, Mo.

LABEL, IN PART: "High Life Broken Sweet Pickles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed pickles.

Disposition: May 23, 1952. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS*

- 19035. Misbranding of canned tomatoes. U. S. v. 140 Cases * * *. (F. D. C. No. 32043. Sample No. 22127-L.)
- LIBEL FILED: October 23, 1951, Southern District of Mississippi.
- ALLEGED SHIPMENT: On or about June 1, 1951, by the Altomato Canning Co., from Alto, Tex.
- Product: 140 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Tylertown, Miss.
- LABEL, IN PART: "Vine Fresh Brand Tomatoes."
- NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product purported to be canned tomatoes, a food for which a standard of quality has been prescribed, and its quality fell below the standard since it contained peel in excess of the maximum permitted by the standard.
- Disposition: February 11, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.
- 19036. Adulteration of tomato paste. U. S. v. 5,562 Cans * * *. (F. D. C. No. 32561. Sample Nos. 35772–L, 35773–L.)
- LIBEL FILED: March 5, 1952, Southern District of Ohio.
- ALLEGED SHIPMENT: On or about May 15, 1951, by the Tosi Trading Co., from Boston, Mass.
- PRODUCT: 5,562 cans, each containing 9 pounds, 15 ounces, of tomato paste at Columbus, Ohio.
- LABEL, IN PART: "La Romanella Brand Tomato Paste" or "La Salernitana Brand Double Concentrated Tomato Paste."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.
- DISPOSITION: May 12, 1952. Default decree of condemnation and destruction.
- 19037. Adulteration of tomato paste. U. S. v. 170 Cases * * * (F. D. C. No. 33099. Sample No. 33341–L.)
- LIBEL FILED: April 25, 1952, Eastern District of Wisconsin.
- ALLEGED SHIPMENT: On or about February 27, 1951, from Chicago, Ill.
- Product: 170 cases, each containing 6 10-pound cans, of tomato paste at Green Bay, Wis.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.
- Disposition: July 1, 1952. Default decree of condemnation and destruction.

^{*}See also No. 19026.

MEAT AND POULTRY

19038. Misbranding of horse meat. U. S. v. 113 Cartons, etc. (F. D. C. No. 33039. Sample Nos. 48403–L, 48404–L.)

LIBEL FILED: April 11, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: On or about October 4, 1951, and January 3, 1952, by the Tri-City Dog Food Co., from Coal Valley, Ill.

Product: Horse meat. 113 1-pound cartons and 8 20-pound cartons at Muscatine, Iowa.

Label, in Part: (Portion of cartons) "Inspd. Horsemeat Net Weight When Wrapped 1 Lb."

Nature of Charge: Misbranding, Sections 403 (e) (1) and (2), the cartons failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and (unlabeled cartons) an accurate statement of the quantity of the contents; Section 403 (i) (1), the label on some of the cartons failed to bear the common or usual name of the food; and, Section 403 (a), the statement "Inspd. Horsemeat" on a number of the cartons was false and misleading since the product was not Government inspected. (Examination disclosed that the 1-pound cartons were short-weight.)

DISPOSITION: May 20, 1952. Default decree of condemnation and destruction.

19039. Adulteration of frozen poultry. U. S. v. 65 Boxes, etc. (F. D. C. No. 33033. Sample No. 9354–L.)

LIBEL FILED: April 15, 1952, Northern District of Illinois.

ALLEGED SHIPMENT: On or about March 24, 1952, by the Henricks Poultry Co., from New Albany, Ind.

Product: 65 boxes and 1 bushel basket of frozen poultry at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

Disposition: April 29, 1952. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. 578 pounds were salvaged and 1,773 pounds destroyed.

19040. Adulteration of dressed poultry. U. S. v. 14 Crates * * * (F. D. C. No. 32994. Sample No. 6406–L.)

LIBEL FILED: March 28, 1952, District of Massachusetts.

Alleged Shipment: On or about March 6, 1952, from Kingston, N. H.

Product: 14 60-pound crates of dressed poultry at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: May 5, 1952. Default decree of condemnation and destruction.

NUTS AND NUT PRODUCTS

19041. Adulteration of unshelled walnuts and almonds. U. S. v. 22 Bags, etc. (F. D. C. No. 33680. Sample Nos. 48563-L to 48567-L, incl.)

LIBEL FILED: April 16, 1952, Southern District of Iowa.

ALLEGED SHIPMENT: On or about October 31, November 20, and December 6, 1951, from Los Angeles, Calif.

PRODUCT: 52 bags, each containing 100 pounds, and 14 bags, each containing 25 pounds, of unshelled walnuts, and 8 bags, each containing 25 pounds, of unshelled almonds at Burlington, Iowa, in possession of the Lagomarcina-Grupe Co.

Nature of Charge: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent-gnawed nuts; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

Disposition: April 28, 1952. The Lagomarcina-Grupe Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. 151 pounds of unfit nuts were segregated and destroyed.

19042. Adulteration of shelled walnuts. U. S. v. 4 Cartons * * * *. (F. D. C. No. 33093. Sample No. 48956–L.)

LIBEL FILED: April 26, 1952, District of Minnesota.

ALLEGED SHIPMENT: During 1950, from the State of California.

Product: 4 cartons, each containing 25 pounds, of shelled walnuts at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent excreta. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 21, 1952. The shipper and consignee of the product having consented to its destruction, the court ordered that the product be denatured and disposed of for use as animal feed.

19043. Adulteration of peanut butter and misbranding of preserves. U. S. v. J. F. Garvey Co., a corporation, and George W. Mechling. Pleas of nolo contendere. Corporation fined \$260; individual defendant fined \$65. (F. D. C. No. 31579. Sample Nos. 9546-L, 13597-L to 13600-L, incl., 13670-L, 31961-L.)

Information Filed: May 2, 1952, District of Nebraska, against the J. F. Garvey Co., Lincoln, Nebr., and George W. Mechling, president.

ALLEGED SHIPMENT: Between the approximate dates of January 26 and November 17, 1951, from the State of Nebraska into the States of Illinois, Missouri, and Colorado.

Label, in Part: "J. F. Garvey Peanola P. B. Made Especially For National Biscuit Co.," "Mrs. Kellog's Institution Style Peach [or "Strawberry" or "Pinecot"] Preserves," "Glendale Brand Institution Style Pinecot Preserves," "Western Brand Institution Style Strawberry Preserves," "Garvey's Red Raspberry Jam," "Institution Style Apricot Jam," or "Clover Farm Brand * * * Pinecot Preserves."

NATURE OF CHARGE: Peanut butter. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and insect fragments.

Preserves. Misbranding, Section 403 (g) (1), the products purported to be and were represented as peach preserves, strawberry preserves, pineapple-apricot preserves, red raspberry jam, and apricot jam, foods for which definitions and standards have been prescribed by regulations, and these foods failed to conform to their respective standards since they contained less than 45 parts by weight of the various fruit ingredients to each 55 parts by weight of the optional saccharine ingredient, and the strawberry preserves contained artificial color, which is not a permitted optional ingredient.

DISPOSITION: June 2, 1952. Pleas of nolo contendere having been entered, the corporation was fined \$260 and the individual defendant \$65.

OILS AND FATS

19044. Adulteration and misbranding of table and cooking oil. U. S. v. 36 Cans

* * * (F. D. C. No. 33127. Sample No. 33219-L.)

LIBEL FILED: May 9, 1952, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about March 12, 1951, by the V. Formusa Co., from Chicago, Ill.

Product: 36 1-gallon cans of table and cooking oil at Detroit, Mich.

Label, in Part: "One Gallon Marconi Brand Contains 75% Cottonseed Oil 20% Olive Oil 5% Peanut Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted or abstracted from the product; and, Section 402 (b) (2), a mixture of corn oil and peanut oil with little or no olive oil had been substituted for a blend of 75% cottonseed oil, 20% olive oil, and 5% peanut oil.

Misbranding, Section 403 (a), the label statement "Contains 75% Cotton-seed Oil 20% Olive Oil" was false and misleading since the product contained no cottonseed oil and little, if any, olive oil.

DISPOSITION: July 8, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

19045. Misbranding of olive oil. U. S. v. 75 Cans. * * *. (F. D. C. No. 32978. Sample Nos. 6484–L, 6599–L.)

LIBEL FILED: March 24, 1952, District of Maine.

Alleged Shipment: On or about October 5, 1951, by A. Accardi Co., Inc., from Boston, Mass.

PRODUCT: 75 cans of olive oil at Portland, Maine.

LABEL, IN PART: "One Full Gallon Pure Imported Olive Oil."

- NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled amount.
- DISPOSITION: April 15, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the goods be released under bond to be relabeled or otherwise brought into compliance with the law, under the supervision of the Food and Drug Administration.

SPICES, FLAVORS, AND SEASONING MATERIALS

19046. Adulteration and misbranding of black pepper. U. S. v. 141 Cans * * * (F. D. C. No. 32615. Sample No. 15165–L.)

LIBEL FILED: January 25, 1952, District of Nebraska.

Alleged Shipment: On or about November 9, 1951, by the Arrow Spice & Food Co., from Dallas, Tex.

Product: 141 1-pound cans of black pepper at Lincoln, Nebr.

LABEL, IN PART: "Arrow Brand * * * Pure Ground Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of black pepper, cottonseed hulls, salt, and capsicum had been substituted in whole or in part for pure black pepper; and, Section 402 (b) (4), cottonseed hulls, salt, and capsicum had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (a), the label designation "Pure * * * Black Pepper" was false and misleading.

- DISPOSITION: May 23, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.
- 19047. Adulteration of imitation pepper. U. S. v. 21/3 Cases, etc. (F. D. C. No. 32494. Sample Nos. 29351-L to 29353-L, incl., 29355-L.)
- Libel Filed: On or about February 21, 1952, Western District of Washington.
- ALLEGED SHIPMENT: Between the approximate dates of May 4 and August 10, 1951, by R. C. Pauli & Sons, from San Francisco, Calif.
- Product: Imitation pepper. 2½ cases, each containing 24 16-ounce tubes; 1 case, containing 6 5-pound tubes; 1 barrel, containing approximately 88 pounds and 6 tubes, each tube containing 2 pounds; and 42 5-pound tubes, at Seattle, Wash.
- Label, IN Part: (Portion) "Imitation Black Pepper" or "Tropic Brand * * *
 Imitation Black [or "White"] Pepper."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.
- DISPOSITION: May 7, 1952. Default decree of condemnation and destruction.
- 19048. Adulteration of red chili pods. U. S. v. 66 Pounds * * * (and 1 other seizure action). (F. D. C. Nos. 33091, 33092. Sample Nos. 14189–L, 14190–L.)

LIBELS FILED: May 8, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about March 17 and 20, 1952, by F. C. Barker & Co., from Mesilla Park, N. Mex.

PRODUCT: 214 pounds of red chili pods at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy chili pods.

DISPOSITION: July 8, 1952. Default decrees of condemnation and destruction.

MISCELLANEOUS FOODS

19049. Adulteration and misbranding of assorted canned and bottled fire-damaged food products. U. S. v. 466 Crates * * * (F. D. C. No. 33044. Sample No. 5950-L.)

LIBEL FILED: April 14, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 15 and 29, 1952, by the Triangle Sales Co., from Philadelphia, Pa.

PRODUCT: 466 crates of an assortment of canned and bottled food products.

RESULTS OF INVESTIGATION: Investigation revealed that these articles were salvaged from a fire-damaged warehouse at Philadelphia, Pa. Some of the articles were decomposed, and some were dirty. The labels on a portion of the containers had been torn, obliterated, or lost.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of dirty food products, and of a decomposed substance by reason of the presence of decomposed food products.

Misbranding, Sections 403 (e) (1) and (2), the products failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the labels failed to bear the common or usual name of the foods; and, Section 403 (i) (2), the products were fabricated from two or more ingredients, and they failed to bear labels containing the common or usual name of each such ingredient.

DISPOSITION: May 12, 1952. The Triangle Sales Corp., of Lynn, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for segregation and relabeling of the fit portion, under the supervision of the Federal Security Agency.

Segregation operations resulted in the destruction of 15 cartons of the products and the salvaging of 60 bottles of grape juice, 15 bottles of sirup, 750 cans of sardines, 50 cans of grapefruit sections, 100 cans of miscellaneous foods, and 250 jars of baby food.

19050. Misbranding of noodle soup mix. U. S. v. 198 Cases * * * (F. D. C. No. 32138. Sample No. 30069-L.)

LIBEL FILED: November 29, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about October 5, 1951, by the I. J. Grass Noodle Co., from Chicago, Ill.

PRODUCT: 198 cases, each containing 48 packages, of noodle soup mix at Seattle, Wash.

LABEL, IN PART: (Package) "Mrs. Grass" Net Wt. 21/4 Oz. Vegetable Noodle Soup Mixture."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Net Wt. 2½ Oz." was inaccurate. (Examination showed that the product was short of the declared weight.)

Disposition: January 17, 1952. The I. J. Grass Noodle Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating, sorting, and relabeling or repackaging, under the supervision of the Federal Security Agency. The product was repackaged into new containers and labeled with a correct statement of weight.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 19001 TO 19050

PRODUCTS

N. J. No.	N. J. No.
Almonds, unshelled 19041	Fruits and vegetables—Con.
Apple juice 19026	fruit, canned—Continued
Apricot(s), dried 19023	miscellaneous fruit
jam 19043	products 19026–19029, 19043
Beans, navy 19030	tomatoes and tomato
Boysenberries, canned 19020	products 19026, 19035-19037
Butter 19011, 19012	vegetables and vegetable
Candy 19001–19003	products 19030-19034
Cereals and cereal products 19008–	Grape jelly 19029
19010	nectar 19028
Cheese 19014	Horse meat 19038
process 19013	Jams, jellies, and
Cherry jelly 19029	preserves 19029, 19043
juice 19027	Jelly. See Jams, jellies, and
Chicos (fried beans) 19033	preserves.
Chili pods, red 19048	Lentils 19031
Chocolate 19004	Meat and poultry 19038-19040
Cider, apple. See Apple juice.	Navy beans 19030
Crab apple jelly 19029	Noodle soup mix 19050
Dairy products 19011-19014	Nuts and nut products 19041-19043
Dates 19024	Oils and fats 19044, 19045
Fats. See Oils and fats.	Olive oil 19045
Fire-damaged food products 19049	Oysters 19019
Fish and shellfish 19015–19019	Peach preserves19043
Flavors. See Spices, flavors, and	Peanut butter 19043
seasoning materials.	Pepper, black 19046
Flour 19008	imitation 19047
Fruits and vegetables 19020–19037,	
19043	Pickles, sweet 19034
fruit, canned 19020	Pineapple-apricot preserves 19043
dried 19021-19024	Plum jelly 19029
frozen 19025	Popcorn, unpopped 19009, 19010

N. J. No.	N. J. No.
Poultry. See Meat and poultry.	Spinach, canned19032
Process cheese 19013	Strawberries, frozen 19025
Raspberry jam 19043	
jelly 19029	
Sardines, canned 19015	juice cocktail 19026
Shellfish. See Fish and shellfish.	paste 19036, 19037
Sirup, sorghum 19005-19007	Tullibees, frozen 19016, 19017
Sorghum sirup 19005–19007	Tuna, canned 19018
Soup mix, noodle 19050	Vegetables. See Fruits
Spices, flavors, and seasoning	and vegetables.
materials 19046-19048	
	unshelled 19041
SHIPPERS, MANUFACTUR	RERS, AND DISTRIBUTORS
N. J. No.	N. J. No.
Accardi, A., Co., Inc.:	Grass, I. J., Noodle Co.:
olive oil 19045	noodle soup mix 19050
Altomato Canning Co.:	Henricks Poultry Co.:
canned tomatoes 19035	frozen poultry 19039
Arrow Spice & Food Co.:	Holsum Products:
black pepper 19046	sweet pickles 19034
Barker, F. C., & Co.:	Irvington Fish & Oyster Co., Inc.:
red chili pods 19048	oysters 19019
Barrow Grocery Co.:	Kozloff Fish Co.:
navy beans 19030	frozen tullibees 19017
Beaver Meadow Creamery, Inc.:	Lagomarcina-Grupe Co.:
butter 19011	unshelled walnuts and al-
Better Taste Popcorn Co.:	monds 19041
unpopped popcorn 19010	Lansaw, Roy:
Breakstone Bros., Inc.:	sorghum sirup 19006
butter 19012	Luden's, Inc.:
Brown, E. D.:	candy 19001 Martha Jane Candies, Inc.:
sorghum sirup 19006	candy 19002
Butterfield Canning Co., Inc.:	Mechling, G. W.:
grape nectar 19028	peanut butter and preserves 19043
Canadian Fish Producers:	National Biscuit Co.:
frozen tullibees19016	peanut butter 19043
Capitol Distributing Co., Inc.:	Oelerich & Berry Co.:
oysters 19019	fruit jelly 19029
Ensley & George Processing Co.:	Owen, C. H., and C. R.:
frozen strawberries 19025	sorghum sirup 19005
Farmers Cooperative Creamery	Owen, Charles H., & Charles R.
Assn.:	Owen:
butter 19012 Flotill Products, Inc.:	sorghum sirup 19005
canned spinach 19032	Pauli, R. C., & Sons:
Formusa, V., Co.:	imitation pepper 19047
table and cooking oil 19044	Pelton Popcorn Co.:
Garvey, J. F., Co.:	unpopped popcorn19009
	Quality House Specialties Corp.: canned sardines 19015
preserves 19045	canned sardines 19015

N. J. No.	N. J. No.
Richmond-Chase Co.:	Triangle Sales Co.:
dried mixed fruit 19021	assorted canned and bottled
Rodda Candy Co.:	fire-damaged food prod-
candy 19003	ucts 19049
Rosenberg Bros. & Co., Inc.:	Tri-City Dog Food Co.:
dried mixed fruit 19021, 19022	horse meat 19038
apricots 19023	Washburn-Wilson Seed Co.:
Schreiber, L. D., & Co.:	lentils 19031
process cheese 19013	Whiting Cheese Factory:
Sisson, A. T., and J. B.:	Cheddar cheese 19014
oysters 19019	Wilbur-Ellis Co.:
Steffen's Dairy Foods Co.:	canned tuna 19018
frozen strawberries 19025	Witwer Grocer Co.:
Tosi Trading Co.:	flour 19008
tomato paste 19036	
tomato paste19036	



The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United
States Government Printing Office,
Washington 25, D. C.

\$1.50 per month

\$15 per year

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19051-19100

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, Commissioner of Food and Drugs. Washington, D. C., May 21, 1953.

CONTENTS

	Page		Page
Cereals and cereal products	26	Fish and shellfish	. 34
Flour	26	Fruits and vegetables	. 36
Miscellaneous cereals	27	Canned fruit	. 36
Chocolate, sugar, and related prod-	•	Frozen fruit	. 36
ucts	28	Vegetables	. 37
Chocolate and cocoa	28	Tomatoes and tomato products.	. 38
Sirup	29	Nuts	. 39
Sugar	29	Oils and fats	40
Dairy products	30	Poultry	41
Butter	30	Vitamin, mineral, and other prod-	•
Cheese	31	ucts of special dietary signifi-	
Eggs	32	cance	42
Feeds and grains		Index	45

CEREALS AND CEREAL PRODUCTS

FLOUR

19051. Adulteration of flour. U. S. v. 7 Bags, etc. (F. D. C. No. 32199. Sample Nos. 38192-L to 38194-L, incl.)

LIBEL FILED: November 29, 1951, District of New Jersey.

ALLEGED SHIPMENT: Between the approximate dates of March 16 and September 17, 1951, from Buffalo, N. Y., Treichlers, Pa., and Lake City, Minn.

PRODUCT: 30 100-pound bags of flour at Clifton, N. J., in the possession of the Kohout Bakery.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 28, 1952. Default decree of condemnation and destruction.

19052. Adulteration of flour. U. S. v. 20 Bags * * *. (F. D. C. No. 32554. Sample No. 36843-L.)

LIBEL FILED: February 29, 1952, Eastern District of New York.

ALLEGED SHIPMENT: On or about November 27, 1951, from Mankato, Minn.

PRODUCT: 20 100-pound bags of flour at Brooklyn, N. Y., in the possession of Neptune Bagel Bakers, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 4, 1952. Default decree of condemnation and destruction.

19053. Adulteration of flour. U. S. v. 99 Bags * * *. (F. D. C. No. 33180. Sample No. 4437-L.)

LIBEL FILED: April 21, 1952, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about February 7, 1952, from Detroit, Mich.

PRODUCT: 99 50-pound bags of flour at Wilson, N. C., in the possession of the Boykin Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: June 6, 1952. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS

19054. Adulteration of shelled yellow corn. U. S. v. 1 Carload * * *. (F. D. C. No. 33462. Sample No. 33388-L.)

LIBEL FILED: On or about July 9, 1952, Northern District of Illinois; amended libel filed on July 10, 1952.

ALLEGED SHIPMENT: On or about June 24, 1952, by the Pippert Grain & Coal Co., from Gladbrook, Iowa.

PRODUCT: 1 carload of shelled yellow corn at Chicago, Ill. Examination showed that one end of the railroad car was plugged with musty corn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of musty corn.

DISPOSITION: July 15 and 28, 1952. Harry H. Schumacher, Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock or poultry feed, under the supervision of the Federal Security Agency.

19055. Adulteration of rice. U. S. v. 4 Bags * * *. (F. D. C. No. 33622. Sample No. 48717-L.)

LIBEL FILED: August 4, 1952, District of South Dakota.

ALLEGED SHIPMENT: On or about April 4, 1952, from Houston, Tex.

PRODUCT: 4 100-pound bags of rice at Huron, S. Dak., in the possession of the Morin Colton Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 18, 1952. A stipulation having been filed admitting the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be destroyed.

19056. Adulteration of wheat. U. S. v. 90,800 Pounds * * *. (F. D. C. No. 33460. Sample No. 48682–L.)

LIBEL FILED: July 9, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about June 9, 1952, by the Williston Farmers Union Elevator Association, from Williston, N. Dak.

PRODUCT: 90,800 pounds of wheat at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: July 18, 1952. The Farmers Union Grain Terminal Association, St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing by scouring, under the supervision of the Federal Security Agency. As a result of reprocessing operations, 1,250 pounds of the product were found unfit and were destroyed.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

CHOCOLATE AND COCOA

19057. Adulteration of chocolate coating. U. S. v. 30 Bales * * *. (F. D. C. No. 31847. Sample No. 11541-L.)

LIBEL FILED: September 26, 1951, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about March 15, 1950, from Lititz, Pa.

PRODUCT: 30 200-pound bales of chocolate coating at Martel, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 19, 1951. E. S. Armstrong, Sr., trading as the Armstrong Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The product was denatured and destroyed.

19058. Adulteration and misbranding of cocoa. U. S. v. 46 Bags * * *. (F. D. C. No. 32958. Sample Nos. 6404–L, 6405–L.)

LIBEL FILED: March 18, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 11, 1952, from Brazil.

PRODUCT: 46 100-pound bags of cocoa at Boston, Mass.

RESULTS OF INVESTIGATION: The cocoa was shipped in cake form and was ground and repackaged in Boston, Mass. Flour was added during grinding.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), flour had been substituted in part for cocoa; and, Section 402 (b) (4), flour had been added to the product and mixed and packed with it so as to increase its bulk and weight. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cocoa since it contained flour which is not a permitted optional ingredient.

DISPOSITION: July 21, 1952. Samuel Feinberg and William Feinberg, trading as the Clinton Chocolate Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed to make a chocolate-flavored cornstarch dessert mix and labeled accordingly, under the supervision of the Federal Security Agency.

19059. Adulteration and misbranding of cocoa. U. S. v. 9 Bags * * *. (F. D. C. No. 32990. Sample No. 38026–L.)

LIBEL FILED: April 1, 1952, Southern District of New York.

Alleged Shipment: On or about February 15 and 29, 1952, by the Clinton Chocolate Co., from Boston, Mass.

PRODUCT: 9 100-pound bags of cocoa at New York, N. Y.

LABEL, IN PART: "Harvard Brand Cocoa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), flour had been substituted in part for cocoa; and, Section 402 (b) (4), flour had been added to the product and mixed and packed with it so as to increase its bulk and weight.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cocoa since it contained flour which is not a permitted ingredient.

Disposition: July 31, 1952. The Clinton Chocolate Co., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed and relabeled, under the supervision of the Federal Security Agency. The product was converted to a dessert mix.

SIRUP

19060. Adulteration and misbranding of sorghum sirup. U. S. v. James R. Lewis and Lloyd O. Lewis (J. R. Lewis). Pleas of guilty. Each defendant fined \$50. (F. D. C. No. 32717. Sample No. 31467-L.)

Information Filed: September 4, 1952, Southern District of Illinois, against James R. Lewis and Lloyd O. Lewis, trading as J. R. Lewis, at Granite City, Ill.

INTERSTATE SHIPMENT: On or about December 6, 1951, from the State of Louisiana into the State of Illinois, of a quantity of sirup consisting principally of glucose and sugar sirup.

Alleged Violation: On or about December 6, 1951, while the product was being held for sale after shipment in interstate commerce, the defendants, at Granite City, Ill., caused labels describing the product as "Sorghum" to be affixed to a number of cans of the sirup, which act of the defendants resulted in the product being adulterated and misbranded.

LABEL, IN PART: (Cans) "Good Old Country Sorghum A Health Food J. R. Lewis * * * Granite City, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), sirup consisting principally of glucose and sugar sirup had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, namely, sorghum; and, Section 403 (a), the label statement "Sorghum" was false and misleading since the article was not sorghum.

DISPOSITION: September 8, 1952. The defendants having entered pleas of guilty, the court imposed a fine of \$50 against each defendant.

SUGAR

19061. Adulteration of sugar. U. S. v. 1,000 Bags * * *. (F. D. C. No. 33300. Sample No. 26623–L.)

LIBEL FILED: June 19, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 21, 1952, from Cuba.

PRODUCT: 1,000 100-pound bags of sugar at Philadelphia, Pa., in the possession of the Pennsylvania Warehouse & Safe Deposit Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 10 and October 28, 1952. Olavarria & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of

condemnation was entered and the court ordered that the product be released under bond for segregation and re-refining of the unfit portion, under the supervision of the Food and Drug Administration. The segregation operations resulted in the salvaging of 713 bags of sugar which was fit for human consumption. The remaining 287 bags of sugar were re-refined for use in animal feed.

19062. Adulteration of sugar. U. S. v. 997 Bags * * *. (F. D. C. No. 33302. Sample No. 26624–L.)

LIBEL FILED: June 19, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 4, 1952, from Cuba.

PRODUCT: 997 100-pound bags of sugar at Philadelphia, Pa., in the possession of the Reading Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 25, 1952. The Reading Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the re-refining of the unfit portion, under the supervision of the Federal Security Agency. The entire lot was re-refined.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of a filthy or decomposed substance, No. 19063; that was below the legal standard for milk fat content, Nos. 19064 and 19065; and that was short of the declared weight, No. 19065.

19063. Adulteration of butter. U. S. v. Money Creek Cooperative Creamery Association. Plea of guilty. Fine, \$250. (F. D. C. No. 31568. Sample No. 19188-L.)

Information Filed: January 18, 1952, District of Minnesota, against the Money Creek Cooperative Creamery Association, a corporation, Money Creek, Minn.

ALLEGED SHIPMENT: On or about July 24, 1951, from the State of Minnesota into the State of Illinois.

LABEL, IN PART: "Creamery Butter Distributed By H. C. Christians Co. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect parts and by reason of the use of filthy cream in its preparation.

DISPOSITION: June 19, 1952. The defendant having entered a plea of guilty, the court imposed a fine of \$250.

- 19064. Adulteration of butter. U. S. v. 12 Boxes * * *. (F. D. C. No. 33158. Sample No. 35198–L.)
- Libel Filed: February 15, 1952, Northern District of New York.
- ALLEGED SHIPMENT: On or about February 6, 1952, by the Nevis Creamery, from Nevis, Minn.
- Product: 12 boxes, each containing approximately 64 pounds, of butter at Troy, New York.
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- Disposition: April 4, 1952. First National Stores, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked, under the supervision of the Federal Security Agency.
- 19065. Adulteration and misbranding of butter. U. S. v. 32 Cases, etc. (F. D. C. No. 33355. Sample Nos. 7931–L, 7932–L.)
- Libel Filed: June 27, 1952, Western District of Pennsylvania.
- ALLEGED SHIPMENT: On or about June 23, 1952, by Isaly's Creamery Products, Inc., from Ft. Wayne, Ind.
- PRODUCT: 32 30-pound cases and 71 16-pound cases of butter at Pittsburgh, Pa.
- LABEL, IN PART: (Carton, 71 cases) "Isaly's Butter 1 lb. net wt."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
 - Misbranding, Section 403 (e) (2), (71 cases) the packages did not bear an accurate statement of the quantity of the contents since they contained less than the labeled "1 lb. net."
- Disposition: July 1, 1952. Isaly's Creamery Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Rechurning and repackaging of the butter resulted in the salvage of 2,032 pounds.

CHEESE

- 19066. Adulteration and misbranding of pasteurized process American cheese. U. S. v. 19 Cases * * *. (F. D. C. No. 33184. Sample No. 9353-L.)
- Libel Filed: April 24, 1952, Northern District of Illinois.
- Alleged Shipment: On or about March 5, 1952, by the Armour Creameries, from Portage, Wis.
- Product: 19 cases, each containing 18 8-ounce packages, of pasteurized process American cheese at Chicago, Ill.
- Label, in Part: "Armour Cloverbloom Pasteurized Process American Cheese."
- Nature of Charge: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, dehydroacetic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of this food and could have been avoided by good manufacturing practice.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for pasteurized process American cheese since it contained dehydroacetic acid.

DISPOSITION: June 17, 1952. Default decree of condemnation and destruction.

19067. Adulteration and misbranding of pasteurized process Gruyere cheese and pasteurized process American cheese. U. S. v. 10 Cases, etc. (F. D. C. No. 32014. Sample Nos. 38491–L, 38492–L.)

LIBEL FILED: November 15, 1951, Eastern District of New York.

ALLLEGED SHIPMENT: On or about October 17, 1951, by the Windmill Cheese Co., from Oley, Pa.

Product: 10 cases, each containing 6 5-pound packages, of pasteurized process Gruyere cheese, and 200 cases, each containing 6 5-pound packages, of pasteurized process American cheese, at Brooklyn, N. Y.

Label, in Part: "Swiss Chalet Gruyere Type Swiss Process Cheese" and "Jason 'Cheeses that Pleases' American Pasteurized."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), (Gruyere cheese) a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), (American cheese) a product containing more than 40 percent moisture and the solids of which contained less than 50 percent milk fat had been substituted for pasteurized process American cheese.

Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for pasteurized process Gruyere cheese and pasteurized process American cheese, respectively, in that the fat content of the pasteurized process Gruyere cheese was less than 45 percent; the moisture content of the pasteurized process American cheese was more than 40 percent, its solids contained less than 50 percent of milk fat, and its label failed to bear the name of the food specified in the standard, namely, "Pasteurized Process American Cheese."

Disposition: January 7, 1952. The Windmill Cheese Co., Oley, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be reprocessed so that they would comply with the law, under the supervision of the Federal Security Agency. The Gruyere cheese was destroyed, and the American cheese was reworked to comply with the law.

EGGS

19068. Adulteration of frozen eggs. U. S. v. 1,600 Cans * * *. (F. D. C. No. 33131. Sample No. 41829-L.)

LIBEL FILED: May 22, 1952, Northern District of California.

ALLEGED SHIPMENT: On or about April 26, 1952, by the Landsberger Creamery & Produce Co., from Sisseton, S. Dak.

Product: 1,600 30-pound cans of frozen eggs at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: June 3, 1952. William H. Oldach, Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the

segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. 1,260 cans of eggs were found to be fit for human consumption, and the remainder, 363 cans, were destroyed.

- 19069. Adulteration of frozen eggs. U. S. v. 600 Cans * * *. (F. D. C. No. 31023. Sample No. 29554-L.)
- LIBEL FILED: April 25, 1951, Western District of Washington.
- ALLEGED SHIPMENT: On or about April 9, 1951, by the Oregon Egg & Poultry Co., from Portland, Oreg.
- Product: 600 30-pound cans of frozen eggs at Seattle, Wash.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.
- Disposition: May 3, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. 515 cans were salvaged, and 85 cans were denatured for use as hog feed.

FEEDS AND GRAINS

- 19070. Adulteration and misbranding of poultry sea food supplement. U. S. v. Archie L. Stanchfield. Plea of guilty. Fine, \$1,000. (F. D. C. No. 31250. Sample No. 64544–K.)
- Information Filed: September 26, 1951, District of Minnesota, against Archie L. Stanchfield, a partner in the partnership of the International Sugar Feed Co., Minneapolis, Minn.
- ALLEGED SHIPMENT: On or about January 5, 1950, from the State of Minnesota into the State of Iowa.
- LABEL, IN PART: "A Semi Solid Fish Product International Poultry Sea Food Supplement."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the article, vitamin D₃ and niacin, had been in part omitted from the article. Misbranding, Section 403 (a), the label statements "Guaranteed Analysis * * * Vitamin D₃, AOAC Chick Units per lb. . . . 38,500 Niacin, Mcg. per lb. . . . 68,760 or 68.76 Mg." were false and misleading since the article per pound contained less than 38,500 AOAC chick units of vitamin D₃ and less than 68,760 micrograms or 68.76 milligrams of niacin.
- DISPOSITION: June 18, 1952. The defendant having entered a plea of guilty, the court imposed a fine of \$1,000.
- 19071. Adulteration and misbranding of Hog Mineral and Cattle Mineral. U. S. v. 336 Bags, etc. (F. D. C. No. 31709. Sample Nos. 3466-L, 3469-L.)
- Libel Filed: September 14, 1951, Eastern District of Virginia.
- ALLEGED SHIPMENT: On or about October 10, 1950, and April 4, 1951, by H. C. Whitmer Co., Inc., from Columbus, Ind.
- Product: 336 50-pound bags of Hog Mineral and 232 50-pound bags of Cattle Mineral at Suffolk, Va., together with accompanying labeling consisting of various issues of circulars entitled "Whitmer Pep," which had been received by the consignee on various dates via the U. S. Mail.

Analyses showed that the products supplied the constituents mentioned on the tags, except that the Hog Mineral supplied only 2.53 percent of phosphorus and the Cattle Mineral supplied only 4.1 percent of phosphorus.

LABEL, IN PART: (Tags) "Hog Mineral Guaranteed Analysis Calcium (Ca), not less than 23.0% [or "Cattle Mineral * * * not less than 25.5%"] Phosphorus (P), not less than 5.0% Salt (NaCl), not more than 10.0% Iodine (I), not less than 0.017%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, phosphorus, had been in part omitted or abstracted from the articles.

Misbranding, Section 403 (a), the following statements appearing in the accompanying labeling were false and misleading: (Tag) "Phosphorus (P), not less than 5.0%" and (July 27, 1950, issue of "Whitmer Pep") "to get top prices for their cattle and hogs, * * * they can do this by feeding Whitmer's Minerals * * * get them to the market with a minimum amount of feed in as short a time as possible * * * help * * * realize this ambition * * * put better livestock on the market quicker by feeding Whitmer's Minerals." The articles contained less than five percent of phosphorus, and they were not capable of fulfilling the promises of benefit made for them.

The libel also included various drugs which were adulterated and/or misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3878.

DISPOSITION: April 18, 1952. Robert Elliot Parker, Suffolk, Va., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond, conditioned that they be brought into compliance with the law, under the supervision of the Food and Drug Administration. The products were relabeled.

FISH AND SHELLFISH

19072. Adulteration of canned salmon. U. S. v. 661 Cases * * * . . (F. D. C. No. 32070. Sample Nos. 28838–L, 28841–L.)

LIBEL FILED: November 7, 1951, Western District of Washington.

Alleged Shipment: On or about August 23, 1951, by the Alaska Coast Fisheries, from Juneau, Alaska.

Product: 661 cases, each containing 48 unlabeled 1-pound cans, of salmon at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed salmon.

DISPOSITION: January 3, 1952. S. Einstoss, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency. 604½ cases were salvaged, and 39 cases and 30 cans were destroyed.

19073. Adulteration of canned salmon. U. S. v. 498 Cases * * *. (F. D. C. No. 31981. Sample Nos. 28962–L, 28965–L.)

Libel Filed: November 16, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about October 16, 1951, by McGovern & McGovern, from Seattle, Wash.

- PRODUCT: 498 cases, each containing 48 unlabeled 8-ounce cans, of salmon at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.
- DISPOSITION: March 20, 1952. Hallmark Fisheries, Inc., Charleston, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Federal Security Agency. 444 cases and 51 cans of the product were salvaged, and 47 cases and 82 cans were destroyed.
- 19074. Misbranding of canned sardines. U. S. v. 496 Cases * * *. (F. D. C. No. 31790. Sample No. 10985-L.)
- LIBEL FILED: October 12, 1951, Southern District of Ohio.
- ALLEGED SHIPMENT: On or about June 18, 1951, by the Tilghman Packing Co., from Tilghman, Md.
- Product: 496 cases, each containing 24 1-pound, 10-ounce cans, of sardines at Cincinnati, Ohio.
- LABEL, IN PART: "Tilghman Pan Ready For Broiling or Frying Five Individually Wrapped Sardines Herring Contents 1 Lb. 10 Oz."
- NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Sardines" was false and misleading since the product was large herring individually parchment wrapped and packed in brine; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans were short of the declared weight).
- Disposition: On March 3, 1952, on the motion of the claimant, the shipper, the case was removed to the United States District Court for the District of Delaware. On December 8, 1952, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Federal Security Agency.
- 19075. Adulteration of crab meat. U. S. v. 52 Tins * * *. (F. D. C. No. 33367. Sample No. 39207-L.)
- LIBEL FILED: On or about July 30, 1952, District of New Jersey; amended libel filed on or about August 7, 1952.
- ALLEGED SHIPMENT: On or about July 23, 1952, by I. F. Cannon & Son, from Cambridge, Md.
- PRODUCT: 52 1-pound tins of crab meat at Spring Lake, N. J.
- Label, in Part: "Cannon's Quality Fresh Picked DeLuxe Crabmeat."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of *B. coli* of fecal origin.
- DISPOSITION: September 10, 1952. Default decree of condemnation and destruction.
- 19076. Adulteration of frozen lobsters. U. S. v. 6 Cartons * * *. (F. D. C. No. 33327. Sample No. 25838–L.)
- LIBEL FILED: July 3, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 3, 1952, from Miami, Fla. This was a return shipment.

PRODUCT: 6 cartons of frozen lobsters at Philadelphia, Pa.

Label, in Part: (Carton) "Random Wt Culls Frosted Lobster Packed By Sebasco Fishermans Assn Sebasco, Maine 30 Lbs Wt."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed lobster meat.

DISPOSITION: August 20, 1952. Default decree of condemnation and destruction.

19077. Adulteration of frozen shrimp. U. S. v. 566 Pounds * * *. (F. D. C. No. 33322. Sample No. 23246-L.)

LIBEL FILED: July 3, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about May 30, 1952, by Joseph Thompson, from Key West, Fla.

Product: 566 pounds of frozen shrimp at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: September 11, 1952. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

19078. Misbranding of canned pears. U. S. v. 73 Cases * * *. (F. D. C. No. 33207. Sample No. 102-L.)

Libel Filed: April 30, 1952, District of Hawaii.

ALLEGED SHIPMENT: On or about January 18, 1952, by Harold C. Brooks, Inc., from Los Angeles, Calif.

PRODUCT: 73 cases, each containing 24 1-pound, 13-ounce cans, of pears at Honolulu, T. H.

LABEL, IN PART: "Bartlett Pears * * * Vita-Pak Brand Packed by K and R Fruit Products Inc., Upland, California."

NATURE OF CHARGE: Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned pears since it did not contain the maximum quantity of the pear ingredient which can be sealed in the container and processed by heat without crushing or breaking the pear ingredient, and its label failed to bear a statement that the product fell below the standard.

DISPOSITION: June 10 and July 15, 1952. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

FROZEN FRUIT

19079. Adulteration of frozen red raspberries and frozen strawberries. U.S. v. Herman C. Bloom (M. Bloom & Co. Frosted Foods). Plea of guilty. Fine, \$500. Defendant placed on probation for 5 years. (F. D. C. No. 31564. Sample Nos. 25505-L, 25509-L, 26360-L, 26361-L.)

Information Filed: January 9, 1952, District of New Jersey, against Herman C. Bloom, a partner in the M. Bloom & Co. Frosted Foods, a partnership, Camden, N. J.

- ALLEGED SHIPMENT: On or about August 7 and 30 and September 6, 1951, from the State of New Jersey into the State of Pennsylvania.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of a decomposed substance by reason of the presence of moldy and rotten berries.
- DISPOSITION: April 18, 1952. The defendant having entered a plea of guilty, the court fined him \$500 and placed him on probation for a period of 5 years.
- 19080. Adulteration of frozen strawberries. U. S. v. 1,400 Cans * * *. (F. D. C. No. 31921. Sample Nos. 10834–L, 12229–L.)
- LIBEL FILED: October 23, 1951, Southern District of Indiana.
- ALLEGED SHIPMENT: On or about June 13 and 15, 1951, by Stokely Foods, Inc., from Middleport, N. Y.
- Product: 1,400 28-pound cans of frozen strawberries at Indianapolis, Ind.
- Label, in Part: "Fresh Frozen Whole Strawberries 28 Lbs. Net Wt. Packed By Geo. W. Haxton & Son Inc. Oakfield, N. Y."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.
- Disposition: April 18, 1952. George W. Haxton & Son, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. Of the 1,472 cans of strawberries which were seized, 1,117 cans were released to the claimant and 355 cans were destroyed.

VEGETABLES

- 19081. Adulteration of canned brown beans. U. S. v. Ellis Canning Co., and Max A. Zelinger. Plea of guilty by Ellis Canning Co.; fine, \$400. Plea of nolo contendere by Max A. Zelinger; fine, \$200. (F. D. C. No. 32716. Sample Nos. 13578-L, 13579-L, 13868-L, 15150-L.)
- Information Filed: July 30, 1952, District of Colorado, against the Ellis Canning Co., a corporation, Denver, Colo., and Max A. Zelinger, vice president of the corporation.
- ALLEGED SHIPMENT: On or about October 16, 23, 24, and 25, 1951, from the State of Colorado into the States of Nebraska, Missouri, and Kansas.
- LABEL, IN PART: "Ellis Western Style Brown Beans."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the article contained an added deleterious substance, namely, stones, which may have rendered it injurious to health.
- Disposition: September 10, 1952. A plea of guilty having been entered by the corporation and a plea of nolo contendere having been entered by Max A. Zelinger, the court imposed a fine of \$400 against the former and \$200 against the latter.

19082. Misbranding of fresh mushrooms. U. S. v. M. Gigliotti & Son. Plea of guilty. Fine, \$100. (F. D. C. No. 32769. Sample Nos. 26232-L, 26655-L.)

INFORMATION FILED: April 22, 1952, Eastern District of Pennsylvania, against M. Gigliotti & Son, a partnership, Avondale, Pa.

ALLEGED SHIPMENT: On or about November 19, 1951, and January 3, 1952, from the State of Pennsylvania into the State of New York.

LABEL, IN PART: "3 Lbs. Net Avondale, Penna. Special Perrich Bros. Inc. * * * New York."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the baskets containing the mushrooms contained less than the labeled 3 pounds.

DISPOSITION: May 15, 1952. The defendant having entered a plea of guilty, the court fined him \$100.

19083. Adulteration of canned peas. U. S. v. 714 Cases * * *. (F. D. C. No. 33120. Sample No. 46263-L.)

LIBEL FILED: May 6, 1952, Northern District of Alabama.

ALLEGED SHIPMENT: On or about July 26, 1951, by the Lincoln Canning Co., from Merrill, Wis.

PRODUCT: 714 cases, each containing 24 1-pound, 1-ounce cans, of peas at Birmingham, Ala.

LABEL, IN PART: "Lincoln Brand Wisconsin Early June Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (The product was decomposed.)

DISPOSITION: June 16, 1952. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

19084. Misbranding of canned tomatoes. U. S. v. 726 Cases * * *. (F. D. C. No. 33310. Sample No. 3910–L.)

LIBEL FILED: On or about June 23, 1952, District of Maryland.

Alleged Shipment: On or about May 31, 1952, by James A. Lewis, from Avalon, Va.

Product: 726 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Baltimore, Md.

LABEL, IN PART: "Briar Farm Brand."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

Disposition: July 22, 1952. The shipper, claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by relabeling, under the supervision of the Food and Drug Administration.

19085. Misbranding of canned tomatoes. U. S. v. 14 Cases, etc. (F. D. C. No. 33191. Sample Nos. 18397–L, 18399–L.)

LIBEL FILED: April 25, 1952, District of Nevada.

ALLEGED SHIPMENT: On or about March 4, 1952, by Case-Swayne Co., Inc., from Santa Ana, Calif.

PRODUCT: Canned tomatoes. 14 cases, each containing 24 1-pound, $3\frac{1}{2}$ -ounce cans, and 19 cases, each containing 24 1-pound, 12-ounce cans, at Las Vegas, Nev.

LABEL, IN PART: "Santa Paula Tomatoes * * * Packed by Santa Ana Canning Co. Santa Ana, Calif." and "Solid Pack Tomatoes Packed by Case-Swayne Co., Inc."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes. (The drained weight of the contents of the container was less than 50 percent of the weight of water required to fill the container, and the labels failed to bear the substandard legend.)

Further misbranding, Section 403 (a), (19-case lot) the label statements "Solid Pack" and "selected for firmness * * * enjoy the whole tomatoes" were false and misleading since the product was substandard in quality because of its low drained weight and since it consisted largely of pieces of tomatoes.

DISPOSITION: May 22, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

19086. Adulteration of tomato paste. U. S. v. 102 Cartons * * *. (F. D. C. No. 30371. Sample No. 57876–K.)

LIBEL FILED: January 3, 1951, Eastern District of New York.

ALLEGED SHIPMENT: On or about December 4, 1950, by Campagnola Food Products Inc., from Los Angeles, Calif.

PRODUCT: 102 cartons, each containing 6 unlabeled No. 10 cans, of tomato paste at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its fermentation.

Disposition: March 13 and April 2, 1951. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Federal Security Agency. 89 cartons of tomato paste were salvaged and 21 were destroyed.

NUTS

19087. Adulteration of shelled peanuts. U. S. v. 80 Bags * * *. (F. D. C. No. 29983. Sample No. 50897–K.)

Libel Filed: November 7, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about September 21, 1950, by Portales Valley Mills, Inc., from Portales, N. Mex.

Product: 80 120-pound bags of shelled peanuts at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect-damaged nuts.

DISPOSITION: March 8, 1951. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Federal Security Agency.

On July 17, 1952, the Government filed a motion for an order forfeiting the bond since the claimant had failed to abide by the terms of the decree. The court thereupon issued an order to the claimant and the surety to show cause why the bond should not be forfeited and the United States marshal authorized to destroy the product. On August 14, 1952, the parties having consented, the court ordered that the product be destroyed.

19088. Adulteration of shelled walnuts. U. S. v. 43 Cases * * *. (F. D. C. No. 33195. Sample Nos. 37234–L, 37235–L.)

LIBEL FILED: April 25, 1952, Southern District of New York.

Alleged Shipment: On or about January 2, 1952, from Turkey.

Product: 43 55-pound cases of shelled walnuts at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nut meats. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: May 12, 1952. Zaloom Brothers Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Federal Security Agency. 1,831 pounds of the walnuts were salvaged and 534 pounds were denatured and destroyed.

OILS AND FATS

19089. Adulteration and misbranding of table and cooking oil. U. S. v. 23 Cases

* * * (and 3 other seizure actions). (F. D. C. Nos. 32901 to 32904, incl.

Sample Nos. 33392-L to 33395-L, incl.)

LIBELS FILED: March 21, 1952, Eastern District of Michigan.

Alleged Shipment: On or about January 31, 1952, by the Western Food Corp., from Chicago, Ill.

Product: 82 cases, each containing 6—1-gallon cans, of table and cooking oil at Detroit, Mich. Examination showed that the product was a vegetable oil containing little or no olive oil.

Label, in Part: "Liguria Superfine Brand An Excellent Composition of 80% Vegetable Oil and 20% of Pure Virgin Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a vegetable oil containing little or no olive oil had been substituted for a blend of 80 percent vegetable oil and 20 percent olive oil.

Misbranding, Section 403 (a), the label designation "20% of Pure Virgin Olive Oil" was false and misleading.

DISPOSITION: June 13, 1952. Default decrees of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed. On June 18, 1952, amended decrees were entered under which the institution was permitted to use the product for human consumption.

- 19090. Adulteration and misbranding of table and cooking oil. U. S. v. 30 Cans * * *. (F. D. C. No. 33155. Sample No. 33227-L.)
- LIBEL FILED: June 2, 1952, Eastern District of Michigan.
- ALLEGED SHIPMENT: On or about September 25, 1951, by the V. Formusa Co., from Chicago, Ill.
- PRODUCT: 30 1-gallon cans of table and cooking oil at Detroit, Mich.
- LABEL, IN PART: "Marconi Brand Contents 75% Cottonseed Oil 20% Olive Oil 5% Peanut Oil."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted or abstracted from the product.

 Misbranding, Section 403 (a), the label statement "20% Olive Oil" was false and misleading since the product contained less than 20 percent olive oil.
- Disposition: July 8, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

POULTRY

- 19091. Adulteration of dressed turkeys. U. S. v. Furman & Co., Inc. Plea of guilty. Fine, \$300. (F. D. C. No. 32802. Sample Nos. 24369–L, 24371–L, 24372–L.)
- Information Filed: October 21, 1952, District of Massachusetts, against Furman & Co., Inc., Canton, Mass.
- ALLEGED SHIPMENT: On or about August 9, 1951, from the State of Massachusetts into the State of New York.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product involved in one shipment consisted in part of a decomposed substance by reason of the presence of decomposed birds and was otherwise unfit for food by reason of the presence of excessively bruised and mutilated birds; furthermore, the product involved in two other shipments consisted in part of a filthy substance by reason of the presence of birds contaminated with fecal matter and crop material.
- Disposition: November 17, 1952. The corporation, having entered a plea of guilty, was fined \$300 by the court.
- 19092. Adulteration of dressed turkeys. U. S. v. Tillman Produce Co., Inc. plea of guilty. Fine, \$100. (F. D. C. No. 32801. Sample No. 32952-L.)
- Information Filed: August 12, 1952, Western District of Wisconsin, against Tillman Produce Co., Inc., Wilton, Wis.
- ALLEGED SHIPMENT: On or about November 15, 1951, from the State of Wisconsin into the State of Illinois.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the food was in part the product of a diseased animal by reason of the presence of diseased birds.
- DISPOSITION: September 3, 1952. The defendant having entered a plea of guilty, the court fined it \$100.
- 19093. Adulteration of dressed poultry. U. S. v. 27 Crates * * *. (F. D. C. No. 32196. Sample No. 38304–L.)
- LIBEL FILED: November 28, 1951, Southern District of New York.
- ALLEGED SHIPMENT: On or about November 13, 1951, by the Maplewood Packing Co., from Belfast, Maine.

- PRODUCT: 27 crates, each containing approximately 65 pounds, of dressed poultry at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds that were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.
- DISPOSITION: December 19, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.
- 19094. Adulteration of dressed poultry. U. S. v. 9 Crates * * *. (F. D. C. No. 32203. Sample No. 38306–L.)
- LIBEL FILED: November 29, 1951, Southern District of New York.
- ALLEGED SHIPMENT: On or about November 14, 1951, by Berry Bros., from Morrill, Maine.
- PRODUCT: 9 72-pound crates of dressed poultry at Bronx, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.
- DISPOSITION: December 18, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

- 19095. Adulteration and misbranding of Bragg vitamin-mineral tablets. U. S. v. 1 Case * * *. (F. D. C. No. 33021. Sample No. 16992-L.)
- LIBEL FILED: April 15, 1952, Northern District of Illinois.
- Alleged Shipment: On or about February 11, 1952, by the Live Food Products Co., from Burbank, Calif.
- PRODUCT: 1 case, each containing 12 540-tablet bottles, of vitamin-mineral tablets at Chicago, Ill.
- LABEL, IN PART: "Bragg Calcium with Phosphorus, Vitamin D * * * Six tablets supply: * * * Vitamin D 1000 USP Units."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted or abstracted from the product.
 - Misbranding, Section 403 (a), the label statement "Six tablets supply: * * * Vitamin D 1000 USP Units" was false and misleading since the product contained less than 1,000 U. S. P. units of vitamin D in six tablets.
- DISPOSITION: September 19, 1952. Default decree of condemnation and destruction.
- 19096. Adulteration and misbranding of Improcal tablets. U. S. v. 477 Bottles, etc. (F. D. C. No. 33346. Sample No. 4274-L.)
- LIBEL FILED: July 11, 1952, Eastern District of Virginia.
- Alleged Shipment: On or about June 12, 1952, by Nysco Laboratories, Inc., from Long Island City, N. Y.

^{*}See also Nos. 19070, 19071.

- PRODUCT: 477 100-tablet bottles of Improcal tablets at Richmond, Va. Examination showed that the product contained 60 percent of the declared amount of thiamine hydrochloride.
- LABEL, IN PART: (Bottle) "100 Tablets No. 1004 Improcal As a supplement to the diet * * * Each Tablet Contains * * * Thiamin Hydrochloride . . . 1 MGM."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine hydrochloride, had been in part omitted or abstracted from the article.
 - Misbranding, Section 403 (a), the label statement "Each Tablet Contains * * * Thiamin Hydrochloride. . . . 1 MGM" was false and misleading as applied to the article, which contained less than the declared amount of thiamine hydrochloride.

The libel alleged also that a quantity of Livocomp capsules was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3833.

- DISPOSITION: September 9, 1952. Default decree of condemnation and destruction.
- 19097. Adulteration and misbranding of Livron tablets. U. S. v. 50,000 Tablets * * * * . (F. D. C. No. 33005. Sample No. 49034-L.)
- LIBEL FILED: April 15, 1952, Eastern District of New York.
- ALLEGED SHIPMENT: On or about January 21 and 22, 1952, by Nysco Laboratories, Inc., from Newark, N. J.
- **PRODUCT:** 50,000 Livron tablets at Long Island City, N. Y. Analysis showed that the product contained approximately 76 percent of the declared amount of thiamine chloride (vitamin B_1).
- LABEL, IN PART: "Empire Chemical Company, Inc., New Brunswick, New Jersey Lot No. 23292 Livron Tablets Each tablet contains: Ferrous Sulfate U. S. P. 3\(^3\)/₅ gr. Liver Concentrate 7 grs. Supplemented to contain approximately: Thiamine Chloride (B₁) 0.5 mg."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine chloride, had been in part omitted or abstracted from the product. Misbranding, Section 403 (a), the label statement "Supplemented to contain approximately: Thiamine Chloride (B₁) 0.5 mg." was false and misleading as applied to the product which contained less than 0.5 milligram of thiamine chloride per tablet.
- Disposition: February 9, 1953. Default decree of condemnation and destruction.
- 19098. Adulteration and misbranding of Multiplex tablets. U. S. v. 1 Drum, etc. (F. D. C. No. 33041. Sample No. 29203-L.)
- LIBEL FILED: May 14, 1952, District of Oregon.
- ALLEGED SHIPMENT: On or about February 8, 1952, by the Neoco Corp., from Los Angeles, Calif.
- PRODUCT: Multiplex tablets. 1 drum, containing 16,000 tablets, 12 bottles, each containing 200 tablets, 6 cartons, each containing 1,000 tablets, and 1 can, containing 4,000 tablets, at Portland, Oreg.
- LABEL, IN PART: (Drum) "Multiplex Improved S. C. Brown * * * Each 4 tabs Contains * * * 3.0 mg. Thiamine HCl."

RESULTS OF INVESTIGATION: The tablets in the drum were repacked into bottles by the consignee.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamine B₁ (thiamine), had been in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the label statement (drum) "Each 4 tabs Contains * * * 3.0 mg. Thiamine HCl" was false and misleading since the product contained less than 3 milligrams of thiamine in each 4 tablets.

DISPOSITION: September 5, 1952. Default decree of condemnation and destruction.

19099. Adulteration of Foodex. U. S. v. 960 Boxes * * *. (F. D. C. No. 33100. Sample No. 14187-L.)

LIBEL FILED: May 12, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about March 15, 1952, by the Scientific Nutrition Corp., from Lancaster, Pa.

PRODUCT: 960 boxes of Foodex at Denver, Colo.

LABEL, IN PART: "Foodex Vitamins and Minerals in Flavorful Food Form Net Weight 1 Lb. 3 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 8, 1952. Default decree of condemnation. The court ordered that samples be delivered to the Food and Drug Administration and that the remainder be destroyed.

19100. Adulteration and misbranding of vitamin mixture. U. S. v. 20 Bottles * * *. (F. D. C. No. 33106. Sample No. 39705-L.)

LIBEL FILED: May 1, 1952, Southern District of California.

ALLEGED SHIPMENT: On or about August 1 and October 1 and 10, 1950, from Rochester, N. Y.

PRODUCT: 20 1-pint bottles of vitamin mixture at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the label statement "The maximum recommended daily dose supplies the minimum daily nutritional requirement of Vitamin B_1 " was false and misleading (the product contained approximately 70 percent of the declared amount of vitamin B_1).

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

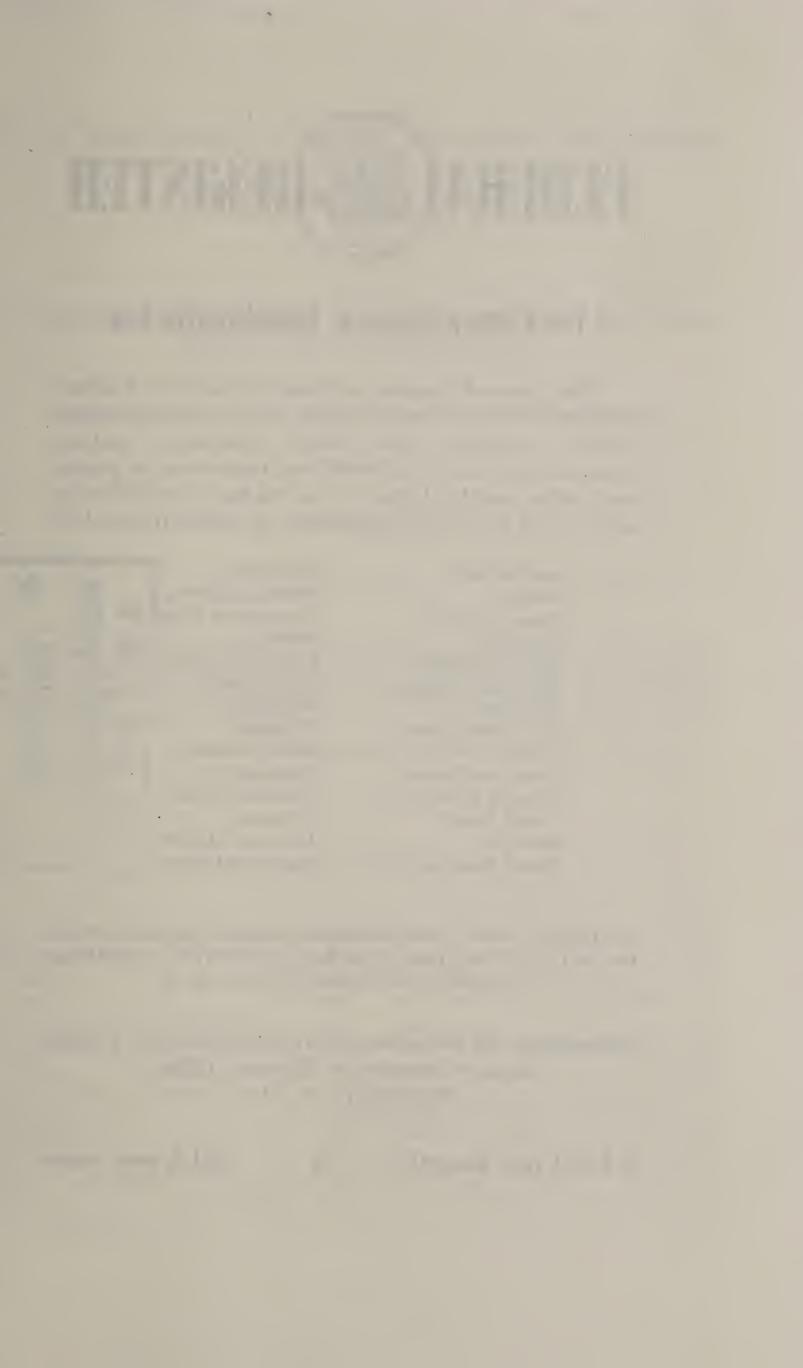
DISPOSITION: May 22, 1952. Default decree of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 19051 TO 19100

PRODUCTS

. N. J. No.	N. J. No.
Beans, brown, canned 19081	Mushrooms, fresh 19082
Bragg vitamin-mineral tablets 19095	Nuts 19087, 19088
Butter 19063-19065	Oils and fats 19089, 19090
Cattle Mineral 19071	Peanuts, shelled 19087
Cereals and cereal products 19051-	Pears, canned 19078
19056	Peas, canned 19083
Cheese, American, process 19066,	Poultry 19091-19094
19067	Process American cheese 19066,
Gruyere, process 19067	19067
Chocolate coating 19057	Gruyere cheese 19067
Cocoa 19058, 19059	Raspberries, frozen 19079
Corn, yellow, shelled 19054	Rice 19055
Crab meat 19075	Salmon, canned 19072, 19073
Dairy products 19063-19067	Sardines, canned 19074
Eggs, frozen 19068, 19069	Shellfish. See Fish and shell-
Fats. See Oils and fats.	fish.
Feeds and grains 19070, 19071	Shrimp, frozen19077
Fish and shellfish 19072–19077	Sirup, sorghum 19060
Flour 19051-19053	Sorghum sirup 19060
Foodex19099	Strawberries, frozen 19079, 19080
Fruits and vegetables 19078–19086	Sugar 19061, 19062
fruit, canned 19078	Tomato(es), canned 19084, 19085
frozen 19079, 19080	paste 19086
tomatoes and tomato prod-	Vegetables. See Fruits and veg-
ucts 19084–19086	etables.
vegetables 19081-19083	Vitamin, mineral, and other
Grains. See Feeds and grains.	
Hog Mineral 19071	products of special dietary
Improcal tablets 19096	significance 19070,
Livron tablets 19097	19071, 19095–19100
Lobsters, frozen 19076	Walnuts, shelled 19088
Multiplex tablets 19098	Wheat 19056
SHIPPERS, MANUFACTUR	RERS, AND DISTRIBUTORS
N. J. No.	N. J. No.
Alaska Coast Fisheries:	Boykin Grocery Co.:
canned salmon 19072	flour 19053
Armour Creameries:	Brooks, Harold C., Inc.:
pasteurized process American	canned pears 19078
cheese 19066	Campagnola Food Products, Inc.:
Berry Bros.:	tomato paste 19086
dressed poultry 19094	Cannon, I. F., & Son:
Bloom, H. C.:	crab meat 19075
	Case-Swayne Co., Inc.:
frozen red raspberries and	canned tomatoes 19085
frozen strawberries 19079	Christians, H. C., Co.:
Bloom, M., & Co. Frosted Foods.	
See Bloom, H. C.	butter 19063

N	J. No.	N.	J. No.
Clinton Chocolate Co.:		Nevis Creamery:	
cocoa	19059	butter	19064
Colton, Morin, Co.:		Nysco Laboratories, Inc.:	
rice	19055	Improcal tablets	19096
Ellis Canning Co.:		Livron tablets	19097
canned brown beans	19081	Oregon Egg & Poultry Co.:	
Empire Chemical Co., Inc.:		frozen eggs	19069
Livron tablets	19097	Pennsylvania Warehouse & Safe	
Formusa, V., Co.:		Deposit Co.:	
table and cooking oil	19090	sugar	19061
Furman & Co., Inc.:		Perrich Bros., Inc.:	
dressed turkeys	19091	fresh mushrooms	19082
Gigliotti, M., & Son:		Pippert Grain & Coal Co.:	
fresh mushrooms	19082	shelled yellow corn	19054
Haxton, Geo. W., & Son, Inc.:		Portales Valley Mills, Inc.:	
frozen strawberries	19080	shelled peanuts	19087
International Sugar Feed Co.		Reading Co.:	
See Stanchfield, A. L.		sugar	19062
Isaly's Creamery Products, Inc.:		Santa Ana Canning Co.:	
butter	19065	canned tomatoes	19085
K & R Fruit Products, Inc.:		Scientific Nutrition Corp.:	
canned pears	19078	Foodex	19099
Kohout Bakery:		Sebasco Fishermans Association:	
flour	19051	frozen lobsters	19076
Landsberger Creamery & Pro-		Stanchfield, A. L.:	
duce Co.:		poultry sea food supplement	19070
frozen eggs	19068	Stokely Foods, Inc.:	
Lewis, J. A.:		frozen strawberries	19080
canned tomatoes	19084	Thompson, Joseph:	
Lewis, J. R. See Lewis, J. R., and		frozen shrimp	19077
L. O.		Tilghman Packing Co.:	
Lewis, J. R., and L. O.:		canned sardines	19074
sorgum sirup	19060	Tillman Produce Co., Inc.:	
Lincoln Canning Co.:		dressed turkeys	19092
canned peas	19083	Western Food Corp.:	
Live Food Products Co.:		table and cooking oil	19089
Bragg vitamin-mineral tablets_	19095	Whitmer, H. C., Co., Inc.:	
McGovern & McGovern:		Hog Mineral and Cattle Min-	
canned salmon	19073	eral	19071
Maplewood Packing Co.:		Williston Farmers Union Eleva-	
dressed poultry		tor Association:	
Money Creek Cooperative Cream-		wheat	19056
ery Association:	100	Windmill Cheese Co.:	
butter	19063	pasteurized process Gruyere	
Neoco Corp.:	1000	cheese and pasteurized proc-	46.5
Multiplex tablets		ess American cheese	19067
Neptune Bagel Bakers, Inc.:		Zelinger, M. A.:	1000
flour	19052	canned brown beans	19081



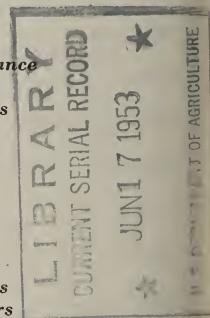


The Primary Source of Administrative Law

The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours



A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

\$1.50 per month

\$15 per year

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19101-19150

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

Charles W. Crawford, Commissioner of Food and Drugs. Washington, D. C., June 8, 1953.

CONTENTS

	Page		Page
Beverages and beverage materials_	48	Fruits and vegetables	. 69
Candy and sirup	60	Canned fruit	. 69
Candy	60	Jams, jellies, and preserves	. 69
Sirup		Vegetables and vegetable prod-	-
Cereals and cereal products		ucts	71
Cornmeal	62	Tomatoes and tomato products_	72
Flour	62	Nuts and nut products	74
Miscellaneous cereals	64	Poultry	75
Dairy products	65	Spices, flavors, and seasoning mate-	•
Butter	65	rials	76
Cheese	66	Index	78
Fish and shellfish	67		

BEVERAGES AND BEVERAGE MATERIALS

19101. Alleged adulteration of Bireley's orange beverage. U. S. v. 88 Cases * * *. Tried to the jury. Verdict for the Government; judgment of condemnation and destruction. Appeal to the U.S. Court of Appeals; judgment of District Court reversed and case remanded for new trial. Certiorari denied by Supreme Court. Case dismissed by District Court. (F. D. C. No. 15144. Sample No. 4602–H.)

LIBEL FILED: February 14, 1945, District of New Jersey.

On or about January 17, 1945, by Bireley's, Inc., from ALLEGED SHIPMENT: Philadelphia, Pa.

Product: 88 cases, each containing 24 6%-fluid-ounce bottles, of Bireley's orange beverage.

LABEL, IN PART: (Bottle) "Enjoy Bireley's Daily For Real Fruit Taste Bire-6¾ fl. ozs. Non-carbonated"; (crown cap) "Bireley's ley's Inc. Phila. Pa. Orange Beverage Contains water, orange pulp & juice, lemon pulp & juice, sugar, lactic acid, orange oil, artificial color."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), yellow coal-tar dyes had been mixed with the article so as to make it look like a product composed entirely or in large part of a fresh orange juice and thus better and of greater value than it was.

Further adulteration, Section 402 (b) (4), the article consisted of a mixture of a small quantity of concentrated citrus juice, or juices, and water, to which had been added additional water, in excess of that contained in the fresh juices from which the concentrates were made, sugar, lactic acid, and orange oil, which substances so added to the article increased its bulk and gave it the taste and odor of an orange juice or of a beverage containing a large quantity of orange juice, thereby making it appear better and of greater value than it was.

Disposition: On March 23, 1945, Bireley's, Inc., entered its appearance and claim, and on May 24, 1945, filed an answer denying that the product was adulterated as charged in the libel. On November 27, 1945, the claimant filed a notice to take the deposition of Dr. Paul B. Dunbar, Commissioner of Food and Drugs, as an officer or agent of the Government, or such other officer, agent, employee, or representative as he might designate who had knowledge of the matters involved in the action. On February 6, 1946, the Government filed a motion to vacate the claimant's notice to examine Dr. Dunbar or other representative of the Government, and on March 1, 1946, the Government's motion to vacate the claimant's notice was argued. Decision was reserved by the court until September 11, 1946, on which date the court granted the Government's motion with the following opinion:

MADDEN, District Judge: "This is a motion by the United States of America, as libelant, to vacate a notice of the taking of oral deposition of Dr. Paul B. Dunbar, Commissioner of Food and Drugs-or such other officer, agent, employee or representative as he may designate—pursuant to Rules 26, 28, 30, 32, and 37 of the Rules of Civil Procedure.

"This is a proceeding under the Federal Food, Drug and Cosmetic Act of June 25, 1938, (21 U. S. C. A. 301, et seq), seizure having been made under Section 334, because the subject matter, namely, an uncarbonated beverage, is alleged to have been adulterated and misbranded.

"The motion by the Government is made upon two grounds. First: That the proceeding being upon a libel is a proceeding in Admiralty and is therefor not governed by the Federal Rules of Civil Procedure, 28 U. S. C. A. following section 723c, pursuant to which the notice of the taking of depositions was given, and, Second: That if the Federal Rules of Civil Procedure do apply, discovery would not be appropriate in this particular case.

"It therefor follows that a study must be made to determine the first question, and if this is decided in favor of the libelant, there is no need of passing

to the second question.

"The particular section of the Food, Drug and Cosmetic Act (21 U. S. C. A. 301 et seq), namely, section 334 (b), provides among other things:

The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

"Since the notice sought to be dismissed is brought under the Federal Rules of Civil Procedure, it becomes necessary to determine whether such rules apply. Rule 81 says, '(1) These rules do not apply to proceedings in Admiralty.' Paragraph 2 of Rule 81 says:

In the following proceedings appeals are governed by these rules, but they are not applicable otherwise than on appeal except to the extent that the practice in such proceedings is not set forth in Statutes of the United States and has heretofore conformed to the practice in actions at law or suits in equity; admission to citizenship, habeas corpus, quo warrant and forfeiture of property for violation of a statute of the United States.

"The footnote concerning this provision of the Rule adds this:

For examples of statutes which are preserved by paragraph (2) see—Title 21, par. 14 (Pure Food and Drug Act—Condemnation of adulterated or misbranded Food; procedure).

"So that if these statutes and rules were all that the court had to guide it in its disposition of the motion, its way would seem clear. However, the rules were adopted in 1939 and we must look to the decisions since their adoption and even prior thereto for further enlightenment.

"In interpreting the statute in question, we must look to the entire statute and not to the single phrase and the procedure in cases under this section

shall conform, as nearly as may be, to the procedure in admiralty.'

"In 1932, Justice Butler, speaking for the Supreme Court in the matter of D. Ginsberg & Sons, Inc., v. Popkin (285 U. S. 204) said:

General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment. U. S. v. Chase, 135 U. S. 255, 260. Specific terms prevail over the general in the same or another statute which otherwise might be controlling. Kepner v. U. S., 195 U. S. 100, 125. In re Hassenbusch, 108 Fed. 38. United States v. Peters, 166 Fed. 613, 615. The construction contended for would violate the cardinal rule that, if possible, effect shall be given to every clause and part of a statute. Market Co. v. Hoffman, 101 U. S. 112, 115. Ex parte Public National Bank, 278 U. S. 101, 104.

"And in Jones v. York County, 47 Fed. 2d., 837, Judge Gardner, speaking for the Eighth Circuit, said:

It is a recognized rule of construction or interpretation that the legislative intent is to be deduced from a view of the whole and every part of the statute taken and compared together, and, if possible, this act should be so construed as to render it a consistent and harmonious whole, and that construction should be favored which will render every provision operative, rather than one which would make some of its provisions idle or nugatory.

"In 1912, the Supreme Court had before it the question of interpreting this very phrase in the then Food and Drug Act, in the matter of 443 Cans of Frozen Egg Products v. United States (226 U. S. 180) and there Mr. Justice Day said:

A statute, practically the same, with some slight changes, was embodied in par. 563 of the Revised Statutes, subdivision 8, giving the District Courts jurisdiction "of all civil causes of admiralty and maritime jurisdiction . . . and of all seizures on land and on waters not within admiralty and maritime jurisdiction," the subdivision mentioned omitting the provision found in the section of the Judiciary Act of 1789 to which we have referred as to seizures "within their respective districts," and including case of "seizures on land and on waters not within admiralty and maritime jurisdiction." Under this statute it has been uniformly held that the District Court as to seizures on land proceeds as a court of common law with trial by jury and not as a court of admiralty.

"In the present matter the seizure is a seizure on land and well recognized as such.

"The counsel for the government strenuously urges for consideration the case of United States v. 720 Bottles, 3 Federal Rules Decision 466. This case is identical with the present case and there District Judge Byers held that the Admiralty Rules applied and sustained the government's motion.

"However, the Second Circuit has felt otherwise, in other cases, for in the matter of Eureka Productions, Inc., v. Mulligan (108 Fed. 2d., 760) Judge

Patterson said:

(1, 2) Since the seizure took place on land, the suit by the United States to condemn the film for violation of customs law was an action at law rather than a suit in admiralty. In the case of seizures on land, suit for condemnation of the thing seized, though brought in the form of a libel of information in admiralty and governed to some extent by Admiralty Rule 22, 28 U. S. C. A. following section 723, is inevitably an action at law. The Sarah, 8 Wheat, 391, 5 L. Ed. 644; Morris's Cotton, 8 Wall. 507, 19 L. Ed. 481; Confiscation Cases, 20 Wall. 92, 22 L. Ed. 320. The district court in such cases proceeds as a court of common law on the equivalent of an information in rem, its jurisdiction being like that of the old Court of Exchequer in seizures for forfeiture of property to the Crown. 1 Kent's Commentaries, page 375; 3 Blackstone's Commentaries, page 261.

The resemblance to a suit in admiralty does not go beyond the process and the initial pleadings, even in cases where the statute providing for confiscation directs that the proceedings shall conform to proceedings in admiralty as near as may be. In re Graham, 10 Wall. 541, 19 L. Ed. 981; 443 Cans of Frozen Egg Product v. United States, 226 U. S. 172, 33 S. Ct. 50, 57 L. Ed. 174. It follows that the decree of condemnation and writ of destruction remained in full force, notwithstanding the appeal, and justified the marshal in destroying the film.

"And the Supreme Court reiterated its position as stated in the 443 Cans of Frozen Egg Product case as recently as 1943 when our late Chief Justice Stone, in the case of C. J. Hendry v. Moore (318 U. S. 133 at page 153) said:

The Court has never held or said that the admiralty jurisdiction in a forfeiture case is exclusive, and it has repeatedly declared that, in cases of forfeiture of articles seized on land for violation of federal statutes, the district courts proceed as courts of common law according to the course of the Exchequer on informations in rem with trial by jury.

"Likewise, in the Sixth Circuit, June, 1943, Judge Martin, in the case of U. S. v. 935 Cases, Tomato Puree (136 Fed. 2d., 526) said:

Recognition that proceedings under the provisions of Section 10 of the Pure Food Act of June 30, 1906, 34 Stat. 768, 21 U. S. C. A. Par. 14, where this procedure was originally prescribed by Congress, shall be by libel in rem and shall conform as nearly as may be to proceedings in admiralty was given by the Supreme Court in Four Hundred and Forty-Three Cans of Frozen Egg Product v. United States, 226 U. S. 172, 178, 183, 33 S. Ct. 50, 57 L. Ed. 174. It was commented there that the provision of the Act giving to either party the right to demand a jury trial of issues of fact was inserted with a view to removing any question

as to the constitutionality of the Act, and that it was not intended to liken the proceedings to those in admirally beyond seizure of the property by process in rem.

"And as recently as December, 1945, the Fifth Circuit passed on the matter in the case of Reynal v. United States (153 Fed. 2d., 929) and Judge Hutcheson said:

We agree with the government that, except as to filing the libel and obtaining jurisdiction, admiralty procedure does not apply. A forfeiture proceeding after these preliminaries takes the character of a law action, and under Rule 81 (a), (2), Federal Rules of Civil Procedure, 28 U. S. C. A., following section 723c, is now governed by those rules. Therefore, appellant may not invoke Admiralty Rule 39 for setting aside a default.

"So that I must overlook the opinion by District Judge Byers in the matter of United States v. 720 Bottles, supra, even though it is directly on point and hold that the present proceeding, while commencing as a libel under the Admiralty Rules, nevertheless, is a seizure upon land and at this stage of the proceedings the Federal Rules of Civil Procedure apply.

"It therefor becomes necessary to consider the second grounds urged in support of the government's motion, namely: Is discovery appropriate in

this case?

"The libel filed by the government is, for the purpose of this motion, full and complete in informing the claimant how the seized article is adulterated and misbranded. Paragraph III of the libel alleges:

—that the said article is adulterated—in that yellow coal tar dyes have been mixed therewith so as to make the said food look like a product composed entirely or in large part a fresh orange juice and thus better and of greater value than it is.

"Paragraph IV alleges:

—that it consists of a mixture of a small quantity of concentrated citrus juice or juices and water, to which have been added additional water, in excess of that contained in the fresh juices from which the concentrates were made, sugar, lactic acid and orange oil, which substances so added to the said food increases the bulk thereof and gives it the taste and odor of an orange juice or of a beverage containing a large quantity of an orange juice, thereby making the said food appear better and of greater value than it is.

"It is therefore quite apparent that discovery is not needed to inform the claimant what the government alleges and it is likewise apparent that what is sought by an examination of the government's chemists doubtless consists of expert testimony or opinions on the part of the chemists who have made analysis of samples of the commodity which has been seized. Therefore, is discovery appropriate?

"In the case of Lewis, et al. v. United Air Line Transportation Corporation,

et al., D. C. W. D. Penna. (32 Fed. Supp. 21) Judge McVicar said:

To permit a party by deposition to examine an expert of the opposite party before trial, to whom the latter has obligated himself to pay a considerable sum of money, would be equivalent to taking another's property without making any compensation therefor. To permit parties to examine the expert witnesses of the other party in land condemnation and patent actions, where the evidence nearly all comes from expert witnesses, would cause confusion and probably would violate that provision of Rule 1 which provides that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action."

"And in Boynton v. R. J. Reynolds Tobacco Co., (36 Fed. Supp. 593) D. C. Mass., Judge McLellan, speaking of examining expert witnesses, said:

(3) But there are cases where the tender of compensation should have no such effect. An expert employed by one of the parties ought not to be

compelled to furnish expert testimony to the other just because the latter offers him compensation. It is his privilege, if not his duty to refuse compensation from one of the parties when he has already accepted employment from the other, and such refusal ought not of itself to result in his being ordered to testify.

(4) To recapitulate, the court has the power, in the exercise of its discretion, to allow this motion or to deny it. Such is the view indicated in Barrus v. Phanseuf, supra. And to me it seems that as a discretionary matter, under the circumstances of the instant case, the defendant should not be permitted to obtain from an expert witness an opinion for which the plaintiff has to pay. Nothing here said is intended as an intimation that if the defendant had tendered a fee to the witness, who had declined it, any different result would have been reached.

"I therefore feel that an analysis and the conclusion based thereon constitute the kind of evidence that the government should not be required to disclose to the claimant in this type of litigation.

"The motion to vacate claimant's notice to examine party is, according to

the views expressed herein, granted."

On January 31, 1947, an order was entered substituting General Foods Corp. as claimant in lieu of Bireley's, Inc. On March 7, 1947, the court denied a motion by the claimant for reargument of the Governments' motion to vacate the claimant's notice to examine party, and on March 21, 1947, the court ordered that the decision and opinion on the Government's motion be reaffirmed.

On October 3, 1949, the case came on for trial before a jury. The trial continued through October 26, 1949, on which date the claimant moved for the dismissal of the libel and for a directed verdict in its favor. This motion was denied. On October 27, 1949, the taking of testimony and the arguments of counsel were concluded, and the case was submitted to the jury, which returned a verdict for the Government that the article was adulterated. On November 4, 1949, the claimant filed a notice for a new trial and for a judgment for claimant Non Obstante Veredicto (notwithstanding the verdict), which motion came on for hearing on November 18, 1949, and was denied. On December 20, 1949, the court entered judgment of condemnation and destruction.

On February 16, 1950, the claimant filed a notice of appeal to the United States Court of Appeals for the Third Circuit. The appeal was argued on December 19, 1950, and on March 23, 1951, the court of appeals handed down the following opinion reversing the judgment of the district court:

Hastie, Circuit Judge: "Pursuant to its libel charging economic adulteration of certain food within the meaning of Section 402 (b) (4) of the Federal Food, Drug and Cosmetic Act, the United States seized for condemnation 88 cases of an article of food labeled 'Bireley's Orange Beverage.' The charges thus asserted were tried to a jury in the District Court for the District of New Jersey with a resultant finding of adulteration and a decree of condemnation. This appeal by General Foods Corporation, the owner of the food, followed.

"Section 402 (b) (4) declares that:

A food shall be deemed to be adulterated . . . (b) . . . (4) if any substance has been added thereto, or mixed or packed therewith so as

¹ 52 Stat. 1046–47 (1938), 21 U. S. C. § 342 (b) (4) (1946).

² The article is described in the libel, in detail, as follows: 88 cases, more or less, each containing 24 6¾ fluid ounce bottles of an uncarbonated beverage labeled: (Crown cap) "Bireley's Orange Beverage Contains water, orange pulp & juice, lemon pulp & juice, sugar, lactic acid, orange oil, artificial color Bireley's, Inc., Phila., Pa." and (bottle label) "Enjoy Bireley's Daily for Real Fruit Taste Bireley's, Inc., Phila., Pa., 6¾ fl. ozs. Non-carbonated."

to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

In this case the United States charged and undertook to prove that the 'food' in question—Bireley's Orange Beverage—was 'adulterated' within the meaning of the statute in that 'substances'—particularly, yellow coal tar dyes, sugar, lactic acid, and orange oil—had been 'added thereto or mixed therewith . . . so as to make it appear better or of greater value than it is.' The appellant, General Foods Corporation, raised questions concerning the meaning and application of the statute, the sufficiency of proof, the correctness of the trial

charge, and the admissibility of certain evidence.

"Preliminarily, we consider an argument that the types of processing and manufacture covered by Section 402 (b) (4) should be limited by a strict grammatical application of the words of the statute. Such an approach suggests that the noun 'food' used in the introductory line of the section, and the articles and adverbs referring back to it be applied precisely and consistently to denote either an adulterated end product or an unadulterated original food. Further, it is argued that the statutory description of adulteration in terms of substances 'mixed with' or 'added to' a 'food' limits the application of the section to situations in which the process of manufacture has been the modification of a basic identifiable and unadulterated article of food through the introduction of some additive.

"We reject this restrictive analysis. In Section 402 (b) (4) we think Congress has employed a very brief text, informally phrased in nontechnical language, to cover generally a very considerable and diverse, but not precisely delimited, field of processing and fabrication. We view the language of the section as a comprehensive, if not always grammatically precise and consistent, description applicable to the manufacture and processing of foods generally, whether a recognized food is altered or sundry ingredients are combined or compounded to make what is essentially a new article of manufacture. Moreover, we think this broad coverage of diverse procedures is sufficiently clear

for common understanding and practical application.

"Such broad and non-technical construction of the language in question is supported by the only two cases which have come to our attention where Courts of Appeals have had to consider the scope of the section. In United States v. 2 Bags [Poppy Seeds], 147 F. 2d 123 (6th Cir. 1945), the product seized was white poppy seeds which had been artifically colored with charcoal. The result was that they looked like naturally dark poppy seeds. The market for the naturally dark seeds was substantially better than that for white seeds. The court held that the product, artifically colored white seeds, was adulterated under 402 (b) (4) because it appeared to be the naturally dark seeds although in fact it was not. 'Food' in the introductory line of the section under this construction thus meant the artificial product. The Court in effect held that the processed article, artificially colored white poppy seeds, is an adulterated product because it is made by mixing with white poppy seeds (the base food) an additional product, charcoal, to cause the white poppy seeds to appear to be naturally dark poppy seeds, and thus better or of greater value than they, the white poppy seeds, in fact are. Under no technically grammatical reading of Section 402 (b) (4) could this result have been reached. Yet, under no circumstances could it be considered an unfair, improper, or surprising conclusion as to the meaning of the section in relation to the facts of the case.

"A substantially similar problem was presented in *United States v. 36 Drums* [*Pop'n Oil*], 164 F. 2d 250 (5th Cir. 1947). There, mineral oil artifically colored yellow to resemble butter, and used in popping corn in theatre machines. was held to be an adulterated product. The sense of the statute in relation

³ In terms, the libel charged that this article of food was adulterated first, "in that yellow coal tar dyes have been mixed therewith so as to make the said food look like a product composed entirely or in large part of a fresh orange juice and thus better and of greater value than it is," and second, "in that it consists of a mixture of a small quantity of concentrated citrus juice or juices and water, to which have been added additional water, in excess of that contained in the fresh juices from which the concentrates were made, sugar, lactic acid and orange oil, which substances so added to the said food increase the bulk thereof and give it the taste and odor of an orange juice or of a beverage containing a large quantity of an orange juice, thereby making the said food appear better and of greater value than it is." Neither at the trial nor on appeal has much point been made of the water content or the added bulk.

to this process was clear. The grammar of its application was not treated as

important.

"In the context of the present case, it is our conclusion that the language of Section 402 (b) (4) covers a situation in which the challenged process of manufacture was the inclusion of one or more designated ingredients among the primary integral components of a distinct fabricated article. It is not important whether the final product has been achieved by a direct dilution of orange juice or, as here, by a more complex process of fabrication.

"More difficult questions arise in construing and applying the requirement of the statute that admixture shall have made the food 'appear better than To whom must the food appear better than it is? And how is it

to be determined whether the food 'appears better than it is'?

"With reference to the first question, the trial judge charged the jury as follows: 'Your function in this case is to determine whether any part of the public, the vast multitude which includes the ignorant, the unthinking and the credulous, and those who do not stop to analyze in making a purchase would be so misled.' We have found nothing else in the charge which modifies the impression created by this statement. The jury was told that deceptive appearance to 'any part' of the public sufficed and the significance of 'any part' was emphasized and underlined by the accompanying reference

to 'the ignorant, the unthinking and the credulous.' This was error.

"The correct standard was the reaction of the ordinary consumer under such circumstances as attended retail distribution of this product. When a statute leaves such a matter as this without specification, the normal inference is that the legislature contemplated the reaction of the ordinary person who is neither savant nor dolt, who lacks special competency with reference to the matter at hand but has and exercises a normal measure of the layman's common sense and judgment. What constitutes the norm of common sense and judgment is peculiarly the province of the jury to decide by relating common experience in the conduct and reaction of people to the circumstances at hand and by weighing such evidence as may be offered of the actual reactions of numbers of ordinary people in similar circumstances. Congress has indicated no extraordinary standard in this section under consideration and we find no basis for imposing one.

"In Section 403 (f) of the Act which deals with misbranded food, it is expressly stated that the branding must be such as is 'likely to be read and understood by the ordinary individual under customary conditions of purchase and use.' It would be reasonable to conclude that an abnormal and more burdensome standard results from the fact that Congress did not deem it necessary to specify a test in Section 402 (b) (4). We think that essentially the same standard should be applied to the determination of consumer reaction

under both sections.

"This formulation also disposes of an issue that has arisen whether such matters as bottling, labeling, and retail price, as well as the taste and physical appearance of the food, constitute appearance under the statute. view, all customary circumstances of retail acquisition and consumption are Thus, the bottling and labeling of the labeled article are properly relevant. considered unless it is shown that some considerable part of the retail trade acquires the beverage without such packaging. Compare United States v. 62 Cases, More or Less, Containing Six Jars of Jam, 183 F. 2d 1014 (10th Cir. 1950); cert. granted, 340 U.S. 890 (1950). Of course, consumer habits in observing or not observing details of packaging are relevant and may be weighed by a jury in determining the effect of container markings upon the consumer.

"We next consider what is meant by a description of food as appearing better than it is' and what criteria are applicable to the determination of such apparent superiority over actual quality. It is not disputed that Bireley's orange drink is in a category of non-carbonated orange flavored soft drinks which has enjoyed a considerable public acceptance and for which there exists a substantial market. Several states have recognized this by establishing standards of quality and identify for such orange drink. This type of beverage has no great nutritive value but it is not deleterious.

"The parties agree that Bireley's orange drink contains about 6% orange juice, 2% lemon juice, 87% water, and small quantities of various other harmless substances. Undoubtedly, any percentage increase in the orange juice content with a corresponding decrease in water content would represent some improvement in food value. Hence, literally the product appears better than it is if it appears to the consumer to contain more than 6% orange juice.

"But here we encounter serious difficulties of vagueness. The statutory test in Section 402 (b) (4) is unreasonable and unenforceable if it requires manufacturers in first instance to anticipate and the trier of fact thereafter to measure anything so speculative or even whimsical as the customer's guess whether an artificial beverage contains five, six, seven, or some other percentage of orange juice. Popular judgments as to degree of dilution, more or less than actuality, are in our view too vague and speculative for meaningful guidance or fair and practical administration of a prohibition against the introduction of otherwise unobjectionable food into commerce. The difficulty with this entire approach is that the 'adulterated' food is made to serve as its own only standard.

"The solution to the problem and the correct construction of the statutory language are to be found in the rationale of the legislative exclusion of products from commerce for economic adulteration where no hygienic adulteration exists. In such cases a product is recognized as wholesome but is excluded from commerce because of the danger of confusing it with something else which is defined, familiar, and superior. Cf. Comments of Congressman Lea at 83 Cong. Rec. 7773 (1935). There is no evidence to indicate a legislative intent to bar from the market foods which are wholesome merely because they may in fact be of relatively little value. So long as they are not confused with more wholesome products, their presence does no harm. Compare Stone, Ch. J. in Federal Security Administrator v. Quaker Oats Co., 318 U. S. 218, 232 (1943).Without a finding that a marketable inferior product is likely to be confused with a specified superior counterpart, we think there can be no appearing 'better than it is' within the scope of disapproval of a section patently concerned only with confusion. Thus, in the case before us, proof of violation of the statute requires first description and definition of the superior counterpart, and second, proof that the consumer is likely to mistake the inferior for the superior.

"United States v. Ten Cases, More or Less, Bred Spred, 49 F. 2d 87 (8th Cir. 1931) which was decided under the 1906 forerunner of the present Act is helpful in indicating the scope of this problem. This was a libel charging misbranding, and adulteration under the subsection which then read 'An article shall be deemed to be adulterated . . . In the case of food . . . if it be mixed, colored, coated, powdered, or stained in a manner whereby damage or inferiority is concealed.' Apparently, Bred Spred, which bore some resemblance to jam, contained approximately 17 parts fruit to 55 parts sugar, whereas most commercial jams were made up of 45 parts fruit to 55 parts sugar, and that of most housekeepers contained fruit and sugar in a 50–50 ratio. The court held that the product was not adulterated, pointing out: 'There was no proof that Bred Spred contained any harmful or deleterious substance. The word "inferiority" in the statute raises the question, what is the other member of the comparison? Or, in other words, Inferior to what? . . . The mere fact that the product contained fewer strawberries than some other product, e. g., jam, . . . does not . . . show that a comparison with jam was called for by the statute unless Bred Spred was being palmed off on the public as jam. No showing of this kind was made.'

"Concealment of inferiority to jam could not be in issue until the relevance of a comparison with jam was established. This, in turn, depended on whether Bred Spred was likely to be confused with the defined commercial or household product called jam. The court did not think it was justified in reaching such a conclusion from the record before it. Thus, the *Bred Spred* case demonstrates the necessity and significance of showing the relationship in public contemplation between the allegedly adulterated product and some familiar and defined standard which it resembles. It makes little sense to speak of

⁴ Sen. Rep. No. 493, 73rd Cong., 2d Sess. (1934) at p. 10 recites the following: "... under the present law and under the bill, a food is defined as adulterated if any substance has been mixed or packed with it so as to reduce its strength, or if any substance has been substituted wholly or in part therefor. These provisions in themselves imply the existence of definitions and standards of identity, since no one can tell when an article is adulterated under them without first determining definitely what constitutes the unadulterated product."

concealment of inferiority except when we add to what. It makes equally little sense to speak of misleading enhancement of appearance except in relation to some standard which by some reasonable technique has been made relevant.

"Recently, the Court of Appeals for the Tenth Circuit has held that the addition of water to canned tomatoes resulted in adulteration of that product. United States v. 716 Cases, More or Less, Del Comida Brand Tomatoes, 179 F. 2d 174 (1950). The court states the purpose of the Act to be the protection of the consumer 'From "economic adulteration" by which less expensive ingredients are substituted, or the proportion of more expensive ingredients are [sic] diminished so as to make the commonly identified article inferior to that which the consumer would expect to get when purchasing it, although not in itself deleterious.' 179 F. 2d at 176. Again, the conclusion on adulteration is rested squarely on the deception potential of the product sold in relation to a familiar standard.

"In the instant case, undiluted orange juice is the only defined and familiar food pointed out in the libel and in evidence as possibly to be confused with Bireley's Orange Beverage. We therefore agree with the claimant that the issue on this aspect of the case is squarely this: Would the ordinary consumer confuse claimant's product with undiluted orange juice? Cf. *United States* v. *Nesbitt Fruit Product*, 96 F. 2d 972 (5th Cir. 1938).

"Legislative consideration of the problem of standards under the Act gives further support to our conclusion that Section 402 (b) (4) is not applicable if the allegedly adulterated food is its own only standard. The inability of the government to establish enforcible standards for fabricated foods, considerably hampered the work of enforcement of the 1906 Act. The solution to this problem suggested in the course of legislative consideration of the 1938 bill, and in due course adopted, was the enactment of provisions giving the Secretary of Agriculture power to promulgate standards of identity for foods. Such standards were to be imposed only after full and fair hearing.⁵

"Questions of various permissible degrees of dilution which were regarded below as relevant and in issue are peculiarly appropriate for disposition by this administrative technique. Under the required administrative procedure, the whole industry can participate in the determination whether orange-flavored soft drinks are capable of satisfactory definition, how their composition should be restricted, and even whether such a food as orange drink, or any of its variants, should be permitted in commerce. Cf. Federal Security Administrator v. Quaker Oats Co., supra.

"However, we agree with the government that it is not necessary that this channel be used. We agree that the statute does not foreclose the procedure used here. But as already indicated, we think the procedure used here permits condemnation only where there is confusion with a defined superior product. If the government would go further it must undertake the formulation of standards of identity in this area.

"The trial court's instruction to the jury did not ask simply and directly whether the Bireley product could be confused with undiluted orange juice. Nor did it ask anything sufficiently close so that we can say that the issue was in effect determined. The court did charge that the government was required to prove that, by virtue of the additions made, the product 'has the capacity to deceive.' And it also charged that 'one type of economic adulteration is

The House Report on the Act of 1938 stated: "Section 401 provides much needed authority for the establishment of definitions and standards of identity and reasonable standards of quality and fill of container of food. One great weakness in the present food and drug laws is the absence of authoritative definitions and standards of identity except in the case of butter and some canned foods. The Government repeatedly has had difficulty in holding such articles and commercial jams and preserves and many other foods to the time-honored standards employed by housewives and reputable manufacturers. The housewife makes preserves by using equal parts of fruit and sugar. The fruit is the expensive ingredient, and there has been a tendency on the part of some manufacturers to use less and less fruit and more and more sugar.

ingredient, and there has been a tendency on the part of some manufacturers to use less and less fruit and more and more sugar.

"The Government has recently lost several cases where such stretching in fruit is involved because the courts held that the well-established standards of the home, followed also by the great bulk of manufacturers, is not legally binding under existing law. By authorizing the establishment of definitions and standards of identity this bill meets the demands of legitimate industry and will effectively prevent the chiseling operations of the small minority of manufacturers, will in many cases expand the demand for agricultural products, particuarly for fruits, and finally will insure fair dealing in the interest of the consumer."

that which makes the product, although not deleterious, inferior to that which consumers expect to receive when purchasing a product under the name by which it was sold.' But the jury was left free to find economic adulteration if it concluded merely that consumers considered the drink less diluted than in fact it was. Thus, we think the charge of the trial judge did not make the issue clear. It fell short of laying bare the decisive question whether in all the circumstances of acquisition the food was likely to be confused with or mistaken for orange juice. In a new trial that issue should be made entirely clear to the jury.

"Several additional issues were raised. Disposition of two of them seems

desirable in view of the fact that the case is to be retried.

"Appellant objected to the admission by the district court of certain surveys taken on behalf of the government. These surveys collate answers given by some 3539 persons to questionnaires prepared by the government to determine what they thought was contained in the Bireley product. Many objections The principal conwere made to the manner in which the surveys were taken. tention, however, was that the surveys were hearsay and therefore inad-The hearsay objection is unfounded. For the statements of the missible. persons interviewed were not offered for the truthfulness of their assertions as to the composition of the beverage. They were not offered to prove that Bireley's Orange Beverage is or is not orange juice. They were offered solely to show as a fact the reaction of ordinary householders and others of the public generally when shown a bottle of Bireley's Orange Beverage. Only the credibility of those who took the statements was involved, and they were before The technical adequacy of the surveys was a matter of the weight the court. to be attached to them. And claimant was properly permitted to introduce elaborate testimony on this point.

"Appellant has also challenged the trial court's admission of testimony and exhibits showing the harmful and painful effects of lack of vitamin C in the diet. It was admitted that Bireley's does not contain vitamin C and that fresh orange juice does. Libellant was permitted to introduce testimony of an expert who had conducted an experiment with sixteen guinea pigs, six of which had been fed a teaspoonful of orange juice per day, six of which had been fed Bireley's, and four of which had been given still a different diet containing no vitamin C. After 21 to 26 days of this, the six orange-juice-fed guinea pigs were in fine condition, but the other ten pigs had all died in apparent agony. The expert produced pictures of the guinea pigs with their legs drawn up in apparent agony. Moreover, later evidence was permitted to be introduced showing the development of scurvy in children who drank an orange

flavored drink but received no vitamin C.

"We agree with appellant that the admission of such testimony was neither necessary nor proper. It is impossible to calculate the effect of such testimony in creating prejudice rather than objective conviction in the minds of the jurors. The only proper issue was the relative food value of orange juice and the Bireley product. It would hardly be disputed, certainly it could be proved simply and impressively yet without sensationalism, that orange juice is much more nutritious, much better in a dietary sense, than Bireley's. Although sensational and shocking evidence may be relevant, it has an objectionable tendency to prejudice the jury. It is, therefore, incompetent unless the exigencies of proof make it necessary or important that the case be proved that way. There was no such need here. On another trial, such evidence should be excluded.

"For the reasons heretofore given, the decree of condemnation will be vacated and the case remanded to the district court for further proceedings not inconsistent with this opinion."

On May 7, 1951, the Government filed its petition for reargument of the case, and the claimant filed a petition for reargument on the single issue of the admissibility of the surveys. Both petitions were denied by the court on May 28, 1951, after the hearing. On June 5, 1951, the Court of Appeals for the Third Circuit issued its mandate that the judgment of the district court be reversed in favor of the claimant, General Foods Corp. The Government petitioned for a writ of certiorari in the Supreme Court of the United States

and petitioned the court of appeals to recall its mandate and stay further proceedings until determination by the Supreme Court on the question of granting certiorari. The Supreme Court denied certiorari on October 22, 1951, and on October 25, 1951, the mandate of the court of appeals was filed in the district court. The decree of December 20, 1949, was ordered set aside, and the case was restored to the docket for further proceedings, in accordance with the mandate and opinion of the court of appeals.

On June 30, 1952, the case was dismissed without prejudice and without costs; the bond was ordered discharged, and the goods were ordered returned to the claimant.

19102. Alleged adulteration of beer. U. S. v. C. O. & W. D. Sethness Co., and Charles O. Sethness 2d and Walter D. Sethness (Esterex Co.). Defendants' motion granted to dismiss information; amended information and second amended information dismissed on motion of defendants. (F. D. C. No. 25593. Sample Nos. 36197-H, 67358-H, 67441-H, 69312-H.)

INFORMATIONS FILED: January 26, 1949, against C. O. & W. D. Sethness Co., a corporation, Chicago, Ill., and Charles O. Sethness 2d and Walter D. Sethness, individuals, president and secretary-treasurer, respectively, of the corporation and also trading as the Esterex Co., at Chicago, Ill.; information amended July 25, 1949, and January 17, 1950.

INTERSTATE SHIPMENT: On or about September 13, 1946, into the State of Oklahoma, and on or about September 24 and October 3, 1946, into the State of Kansas, by King Cole Breweries, Inc., from Chicago Heights, Ill.; and on or about November 7, 1946, into the State of Michigan, by the Atlantic Brewing Co., from Chicago, Ill.

Alleged Violation: The information as amended alleged that within the period from on or about July 1, 1946, to on or about October 3, 1946, the defendants caused to be delivered to King Cole Breweries, Inc., at Chicago Heights, Ill., and within the period from on or about January 24, 1945, to on or about October 2, 1946, caused to be delivered to the Atlantic Brewing Co., at Chicago, Ill., various quantities of Schoenen Chloracetic Acid Solution, a poisonous and deleterious substance, which was manufactured and sold by the defendants for use in food products and which, as the defendants well knew, contained a poisonous and deleterious substance, monochloracetic acid.

The information as amended alleged further that the defendants knew that the product added to food was unsafe within the meaning of Section 406 and that the introduction into interstate commerce of any food containing the product was unlawful because such food was adulterated within the meaning of Section 402 (a) (2); that King Cole Breweries, Inc., and the Atlantic Brewing Co. were engaged in the manufacture of beer and in the introducing of such beer into interstate commerce; that the defendants intended that the product, Schoenen Chloracetic Acid Solution, be added to the beer manufactured by the breweries and had reason to know that the breweries would add the product to the beer they were manufacturing, to be introduced and delivered for introduction into interstate commerce; that the defendants counseled and recommended to the breweries that the product be added to the beer they manufactured wherever such beer was sold and delivered, and the defendants sold and delivered the product to the breweries for that purpose; and that the breweries added the product in the manufacture of beer and made the interstate shipments of various quantities of beer to which the product had been added, as counseled and recommended by the defendants and as stated above.

The amended information alleged further that the defendants, by selling and delivering the product, Schoenen Chloracetic Acid Solution, for the purpose and with the knowledge and intention as described, did unlawfully aid, abet, counsel, and induce the breweries to introduce and deliver for introduction into interstate commerce beer which was adulterated in violation of the law.

LABEL, IN PART: (Bottles) "Tavern Beer Pale Brewed and Bottled by the Atlantic Brewing Company," or "Oklahoma Headlite Lager Beer [or "Maltaza Select Beer Extra Pale"] King Cole Breweries, Inc."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the beer contained Schoenen Chloracetic Acid Solution, an added poisonous and deleterious substance, which is unsafe within the meaning of Section 406, since it is not required in the production of the beer and could have been avoided by good manufacturing practice.

DISPOSITION: On April 21, 1949, the defendants filed a motion to dismiss the information, on the ground that it was insufficient in law in that it did not charge that the product, Schoenen Chloracetic Acid Solution, delivered to the breweries was poisonous or deleterious and in that it did not in any way connect the defendants with the unlawful act, the shipment in interstate commerce. The motion to dismiss was sustained by an order dated June 29, 1949.

On July 25, 1949, an amended information was filed to which the defendants filed a motion to dismiss, alleging that the principal objection to the first information, i. e., that it did not allege that the product delivered by defendants was itself a poisonous or deleterious substance, had not been met. On December 7, 1949, an order sustaining the defendants' motion and ordering the amended information dismissed was entered.

On January 17, 1950, an amended information to the amended information was filed to which the defendants filed a motion to dismiss, alleging that the most recent offense charged in the information occurred more than 3 years before the filing of the second amended information and that prosecution was barred by the statute of limitations. The defendants' motion was submitted to the court on briefs by counsel for the Government and the defendants, and on June 23, 1950, the court sustained the defendant's motion in the following oral opinion:

Sullivan, District Judge: "The statute of limitations governing the alleged offenses is Title 18, Section 3282 of the United States Code.

Except as otherwise expressly provided by law no person shall be prosecuted, tried or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed.

"The information upon which the Government now relies was not instituted until January 17, 1950, more than three years after November 7, 1946, the date of the most recent offense alleged.

"The failure of the first two informations to charge defendants with the commission of a crime made them null and void for all purposes. Now that a new information has been filed, this case is pending solely on this new information; the previous informations are abandoned *Armstrong vs. U. S.* 16 F. 2d 62 (CCA 9); 'When an information is amended, the original information is thereby set aside and abandoned.'

"Thus the Government stands or falls not on the basis of the first two informations, but solely on the basis of the January 17, 1950, information, which was barred by the statute of limitations.

"Defendants' motion to dismiss the information filed January 17, 1950, is

hereby granted."

19103. Adulteration of coffee concentrate. U. S. v. 292 Cases (and 9 other seizure actions). (F. D. C. Nos. 32504, 32656, 32686, 32860, 32935, 32946, 32992, 33071, 33079, 33128. Sample Nos. 1084-L, 1086-L, 5848-L, 6259-L, 10839-L, 22310-L, 22471-L, 34147-L, 35510-L, 35777-L, 36086-L.)

LIBELS FILED: Between February 11 and May 9, 1952, District of Massachusetts, Southern District of Florida, Western District of Missouri, District of Minnesota, District of Rhode Island, Western District of Texas, Northern and Southern Districts of Ohio, and Southern District of Indiana.

ALLEGED SHIPMENT: Between the approximate dates of October 9 and November 13, 1951, from Dubuque, Iowa.

PRODUCT: Coffee concentrate. 134 cases at Daytona Beach, Fla.; 267 cases at Springfield, Mo.; 79 cases at Rochester, Minn.; 352 cases at Athens, Ohio; 38 cases at Waco, Tex.; 341 cases at Saylesville, R. I.; 292 cases at Fitchburg, Mass.; 37 cases at Fort Worth, Tex.; 37 cases at Indianapolis, Ind.; and 282 cases at Ashland, Ohio. Each case contained 24 6-ounce bottles.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. Examination disclosed that the product was undergoing progressive decomposition. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: Between March 5 and August 13, 1952. Default decrees of condemnation and destruction.

19104. Adulteration of coffee concentrate. U. S. v. 100 Cases * * *. (F. D. C. No. 32528. Sample No. 1137-L.)

LIBEL FILED: February 20, 1952, Southern District of Florida.

ALLEGED SHIPMENT: On or about November 14, 1951, from Dubuque, Iowa.

PRODUCT: 100 cases, each containing 24 6-ounce bottles, of coffee concentrate at Ft. Myers, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 12, 1952. Default decree of condemnation and destruction.

CANDY AND SIRUP

CANDY

19105. Adulteration of candy. U. S. v. 44 Cartons * * *. (F. D. C. No. 32101. Sample No. 19067-L.)

LIBEL FILED: November 16, 1951, District of Minnesota.

ALLEGED SHIPMENT: On or about October 31, 1951, by Melster Candies, Inc., from Cambridge, Wis.

PRODUCT: 44 cartons, each containing 12 1%-ounce bars, of candy at Minneapolis, Minn.

LABEL, IN PART: "Melster Cherrie Nut Topped."

- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: January 2, 1952. A default decree of condemnation was entered, and the court ordered that the product be denatured for use as animal feed or be destroyed. The product was used for hog feed.

SIRUP

- 19106. Adulteration and misbranding of sorghum sirup. U. S. v. Johnny Lee Lansaw. Plea of guilty. Defendant sentenced to 20 days in jail. (F. D. C. No. 31276. Sample No. 31952-L.)
- Information Filed: November 24, 1951, Western District of Missouri, against Johnny Lee Lansaw, Joplin, Mo.
- INTERSTATE SHIPMENT: Between the approximate dates of November 26, 1950, and January 11, 1951, from the State of Texas into the State of Missouri.
- VIOLATION CHARGED: On or about January 11, 1951, while the sirup was held for sale after shipment in interstate commerce, the defendant removed from the cans the labels reading "New Crop Syrup A Sorghum Flavor Blend of Cane Sugar Syrup, Corn Syrup, Molasses and Sorghum Syrup Made By T. J. Blackburn Jefferson, Texas" and relabeled the cans with labels reading "Sorghum * * * Made for and Sold By Roy Lansaw 711 Finn Street, Joplin, Missouri."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance consisting of cane sugar sirup, corn sirup, molasses, and sorghum had been substituted for sorghum.
 - Misbranding, Section 403 (a), the label statement "Sorghum" on the cans was false and misleading; Section 403 (b), the product was offered for sale under the name of another food, sorghum; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.
- DISPOSITION: May 26, 1952. The defendant, having entered a plea of guilty, was sentenced to 20 days in jail.
- 19107. Adulteration and misbranding of sorghum sirup. U. S. v. 271 Pails, etc. (F. D. C. No. 31902. Sample No. 33978-L.)
- LIBEL FILED: October 18, 1951, Western District of Kentucky.
- ALLEGED SHIPMENT: On or about September 22, 1951, by Buck Hillman, from Conehatta, Miss.
- PRODUCT: Sorghum sirup. 271 4½-pound pails and 98 9½-pound pails at Paducah, Ky.
- LABEL, IN PART: "Newton County, Mississippi Honey Drip Sorghum Molasses."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum and corn sirup had been substituted for sorghum molasses.
 - Misbranding, Section 403 (a), the label statement "Sorghum Molasses" was false and misleading.
- Disposition: April 24, 1952. The A. Switzer Grocery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and

the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

CEREALS AND CEREAL PRODUCTS

CORNMEAL

19108. Adulteration and misbranding of enriched cornmeal. U. S. v. 26 Cases * * *. (F. D. C. No. 32515. Sample No. 13785-L.)

LIBEL FILED: February 12, 1952, District of Utah.

ALLEGED SHIPMENT: On or about December 11 and 12, 1951, by the Millstream Cereal Co., from Bonner Springs, Kans.

PRODUCT: 26 cases, each containing 10 5-pound bags, of enriched cornmeal at Salt Lake City, Utah.

Label, in Part: "Mammy Lou * * * Enriched Degerminated Corn Meal Yellow."

Nature of Charge: Adulteration, Section 402 (b) (1), valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted from the article. Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched cornmeal since it contained in each pound less than 2.0 mgs. of thiamine, less than 1.2 mgs. of riboflavin, less than 16.0 mgs. of niacin, and less than 13.0 mgs. of iron, the minimum permitted by the standard.

DISPOSITION: March 14, 1952. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

FLOUR

19109. Adulteration of flour. U. S. v. Master Bakers Supply, Inc. Plea of guilty. Fine, \$200. (F. D. C. No. 32699. Sample Nos. 5697-L, 5698-L.)

Information Filed: May 19, 1952, District of Massachusetts, against Master Bakers Supply, Inc., Boston, Mass.

ALLEGED VIOLATION: At a time prior to April 5, 1951, the defendant received at Boston, Mass., a quantity of flour which had been shipped in interstate commerce. While the product was being held for sale after shipment in interstate commerce, the defendant, within a period from on or about April 5, 1951, to on or about June 25, 1951, caused the food to be held under insanitary conditions whereby it was exposed to contamination by rodents.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it was held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 3, 1952. The defendant having entered a plea of guilty, the court fined it \$200.

19110. Adulteration of flour. U. S. v. 49 Bags, etc. (F. D. C. No. 31917. Sample Nos. 34988–L, 34995–L.)

LIBEL FILED: October 23, 1951, District of South Dakota.

ALLEGED SHIPMENT: On or about July 27 and September 8, 1951, from Great Falls, Mont., and Mandan, N. Dak.

PRODUCT: 5,950 pounds of flour at Eureka, S. Dak., in possession of John Wolff & Sons.

NATURE OF CHARGE: The product was stored under insanitary conditions after shipment in interstate commerce. Some of the bags of flour were rodent-gnawed and rodent urine and rodent pellets were found on the bags in violation of Section 402 (a) (4).

Disposition: February 8, 1952. From a total of 41 100-pound bags and 16 50-pound bags of flour which were seized, the court condemned 7 100-pound bags and 1 50-pound bag of the product found to be adulterated and ordered it used for animal feed. Based upon the findings of the Department of Agriculture of the State of South Dakota, the remainder of the product was found fit for human consumption and was ordered released to John Wolff & Sons, the claimant.

19111. Adulteration of flour. U. S. v. 270 Bags * * *. (F. D. C. No. 32000. Sample No. 22037-L.)

LIBEL FILED: October 19, 1951, Western District of Louisiana.

ALLEGED SHIPMENT: On or about August 14, 1951, from Arkansas City, Kans.

PRODUCT: 270 25-pound bags of flour at Breaux Bridge, La.

LABEL, IN PART: (Bag) "Beauty Biscuit Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 14, 1952. Default decree of condemnation. The court ordered the marshal to destroy the article or dispose of it otherwise, as provided by law. It was utilized as hog feed in accordance with instructions from the court.

19112. Adulteration of flour and rice. U. S. v. 60 Bags, etc. (F. D. C. No. 31930. Sample Nos. 21596-L to 21599-L, incl., 21671-L, 21784-L to 21790-L, incl.)

LIBEL FILED: October 19, 1951, Southern District of Mississippi.

ALLEGED SHIPMENT: Between the approximate dates of January 2 and September 6, 1951, from Mobile, Ala., and Springfield, Mo.

Product: 548 10-pound bags, 759 25-pound bags, and 72 50-pound bags of flour, and 33 bales, each containing 20 3-pound packages, of rice at Pascagoula, Miss.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

Disposition: December 11, 1951; modified January 14, 1952. The Gulley Grocery Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the products be released under bond to be denatured. The products were denatured and used for hog feed.

MISCELLANEOUS CEREALS*

19113. Adulteration of rice. U. S. v. 205 Bags * * *. (F. D. C. No. 31922. Sample No. 28568–L.)

LIBEL FILED: October 24, 1951, Northern District of California.

Alleged Shipment: On or about April 30, 1951, from Stuttgart, Ark.

PRODUCT: 205 100-pound bags of rice at Sacramento, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 2, 1952. Pacific Mutual Sales, Inc., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be cleaned and reprocessed, under the supervision of the Food and Drug Administration.

20,345 pounds of rice were recleaned, and 40 pounds of screenings and 219 pounds of rejected rice were destroyed.

19114. Adulteration of rice. U. S. v. 20 Bags * * *. (F. D. C. No. 31934. Sample No. 25661–L.)

LIBEL FILED: October 23, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 5, 1950, from Eunice, La.

PRODUCT: 20 100-pound bags of rice at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 5, 1951. Default decree of condemnation and destruction.

19115. Adulteration of brewers rice grits. U. S. v. 170,000 Pounds * * *. (F. D. C. No. 31907. Sample No. 19060-L.)

LIBEL FILED: October 22, 1951, District of Minnesota.

ALLEGED SHIPMENT: On or about September 20 and 24, 1951, from Sacramento, Calif.

Product: 170,000 pounds of brewers rice grits at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 16 and December 7, 1951. The Minneapolis Brewing Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by fermentation and distillation into alcohol, under the supervision of the Food and Drug Administration. The product was used in the manufacture of industrial alcohol and the residue used for animal feed.

^{*}See also No. 19112.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 19116 to 19119; that was below the legal standard for milk fat content, No. 19120; and that was short of the declared weight, No. 19119,

- 19116. Adulteration of butter. U. S. v. Beatrice Foods Co. Plea of nolo contendere. Fine of \$2,250 and costs. (F. D. C. No. 31592. Sample No. 33058-L.)
- LIBEL FILED: February 27, 1952, Southern District of Iowa, against the Beatrice Foods Co., a corporation, Des Moines, Iowa.
- ALLEGED SHIPMENT: On or about July 30, 1951, from the State of Iowa into the State of Illinois.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, fly setae, and mites, and by reason of the use of filthy cream in its preparation.
- DISPOSITION: May 7, 1952. A plea of nolo contendere having been entered, the defendant was fined \$2,250 and costs.
- 19117. Adulteration of butter. U. S. v. Farmers Cooperative Creamery. Plea of guilty. Fine of \$500. (F. D. C. No. 32700. Sample No. 19187-L.)
- Information Filed: April 3, 1952, District of Minnesota, against the Farmers Cooperative Creamery, Hector, Minn.
- ALLEGED VIOLATION: On September 20, 1940, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that all food comprising each shipment or delivery made by the defendant to the holder of the guaranty would not be adulterated or misbranded within the meaning of the law. On or about July 18, 1951, the defendant delivered under the guaranty a quantity of butter which was adulterated.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and manure fragments, and by reason of the use of filth-contaminated cream in the preparation of the product.
- DISPOSITION: June 16, 1952. A plea of guilty having been entered, the court fined the defendant \$500.
- 19118. Adulteration of butter. U. S. v. 36 Cartons * * *. (F. D. C. No. 31687 Sample No. 23460–L.)
- LIBEL FILED: August 3, 1951, Northern District of New York.
- ALLEGED SHIPMENT: On or about June 8 and 22, 1951, by American Dairies, Inc., from Kansas City, Mo.
- PRODUCT: 36 32-pound cartons of butter at Binghamton, N. Y. Analysis showed that the product contained excessive mold mycelia, indicating the use of decomposed cream.
- Label, IN Part: "Butter * * * Penn Valley * * * Homaid Brands, Inc. 158 Clinton St. Binghamton, New York."

- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.
- DISPOSITION: September 15, 1951. Default decree of condemnation and destruction.
- 19119. Adulteration of egg powder and misbranding of egg powder and butter. U. S. v. Lakeview Dairy Products, Inc., and Benjamin Goldenberg. Pleas of guilty. Defendants fined \$2,500. (F. D. C. No. 31552. Sample Nos. 3555-L, 3556-L.)
- INFORMATION FILED: March 27, 1952, Southern District of New York, against Lakeview Dairy Products, Inc., New York, N. Y., and Benjamin Goldenberg, president.
- ALLEGED SHIPMENT: On or about January 2 and 30, 1951, from the State of New York into the State of Maryland.
- NATURE OF CHARGE: Egg powder. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and wood splinters.

Egg powder and butter. Misbranding, Section 403 (a), the label statements (butter) "1 Lb. Net Weight" and (egg powder) "Net Weight 8 Ounces" were false since the cans containing the foods contained less than the labeled amounts.

- DISPOSITION: April 28, 1952. Pleas of guilty having been entered, the court fined the defendants \$2,500 jointly and severally.
- 19120. Adulteration of butter. U. S. v. 34 Cartons * * *. (F. D. C. No. 31236. Sample Nos. 19042–L, 23918–L.)
- LIBEL FILED: April 28, 1951, Northern District of New York.
- ALLEGED SHIPMENT: On or about April 11, 1951, by the Holmen Cooperative Creamery Association, from Holmen, Wis.
- Product: 34 63-pound cartons of butter at Troy, N. Y.
- LABEL, IN PART: "Creamery Butter First National Stores, Inc. Distributors Somerville, Mass."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION: July 11, 1951. First National Stores, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

CHEESE

- 19121. Adulteration of grated cheese. U. S. v. Icco Cheese Co., Inc. Plea of guilty. Fine of \$75. (F. D. C. No. 32698. Sample Nos. 25526-L, 25527-L, 26354-L.)
- Information Filed: April 15, 1952, Eastern District of New York, against Icco Cheese Co., Inc., Brooklyn, N. Y.
- ALLEGED SHIPMENT: On or about June 4, 13, and 26, 1951, from the State of New York into the State of Pennsylvania.
- Label, in Part: "Sexton * * * Grated Romano Cheese Distributed by John Sexton & Co., * * * Chicago, Ill." or "Icco * * * Grated Imported Argentine

- and Domestic Romano Sharp Type Cheese Grated and Packed By Icco-Cheese Co., Inc. Brooklyn, N. Y."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance other than grated Romano cheese had been substituted in whole or in part for grated Romano cheese, which the article was represented to be.
- DISPOSITION: July 9, 1952. A plea of guilty having been entered, the court imposed a fine of \$75.
- 19122. Adulteration of cottage cheese, cream, and condensed skim milk. U. S. v. Foremost Dairies, Inc. Plea of nolo contendere. Fine of \$100. (F. D. C. No. 31544. Sample Nos. 55050-K, 82034-K, 905-L, 908-L, 1403-L, 1899-L.)
- INFORMATION FILED: September 28, 1951, Middle District of Tennessee, against Foremost Dairies, Inc., Columbia, Tenn.
- ALLEGED SHIPMENT: Between September 26, 1950, and March 31, 1951, from the State of Tennessee into the States of North Carolina, South Carolina, Georgia, Alabama, and Florida.
- Label, in Part: "Foremost Dairies, Inc. * * * 40% Sweet Cream [or "36% Cond. Skim" or "Cottage Cheese"]."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances since they had been prepared from dirty milk and since they contained insect fragments, cow hairs, rodent hair fragments, fly fragments, mites, feather barbules, dog hairs, and a cockroach.
- DISPOSITION: November 17, 1952. A plea of nolo contendere having been entered, the court fined the defendant \$100.
- 19123. Adulteration and misbranding of process cheese. U. S. v. 15 Cases * * *. (F. D. C. No. 33050. Sample No. 27568-L.)
- LIBEL FILED: April 14, 1952, Northern District of California.
- ALLEGED SHIPMENT: On or about February 13, 1952, by L. D. Schreiber & Co., Inc., from Green Bay, Wis.
- Product: 15 cases, each containing 20 ½-pound packages, of process cheese at Oakland, Calif.
- LABEL, IN PART: "Golden State Brand Pasteurized Process American Cheese."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, dehydroacetic acid, which is unsafe within the meaning of the law since it is not required in the production of the food and can be avoided by good manufacturing practice.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for pasteurized process American cheese since it contained dehydroacetic acid, which is not a permitted ingredient.

DISPOSITION: August 14, 1952. Default decree of condemnation and destruction.

FISH AND SHELLFISH

- 19124. Adulteration of frozen pollack. U. S. v. 22 Cans * * *. (F. D. C. No. 33332. Sample Nos. 23250–L, 23251–L.)
- LIBEL FILED: July 9, 1952, Southern District of New York.
- Alleged Shipment: Between June 1 and 4, 1952, from Gloucester, Mass.

PRODUCT: 22 25-pound cans of frozen pollack at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 21, 1952. Default decree of condemnation and destruction.

19125. Adulteration of canned kipper snacks. U. S. v. 22 Cartons * * *. (F. D. C. No. 33350. Sample No. 44223-L.)

LIBEL FILED: July 16, 1952, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 6, 1952, from New York, N. Y.

PRODUCT: 22 cartons, each containing 50 3 1/4-ounce cans, of kipper snacks at Webster, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 18, 1952. Chr. Bjelland & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and the destruction of the unfit portion, under the supervision of the Food and Drug Administration. 858 cans of kipper snacks were salvaged and 92 were denatured and destroyed.

19126. Adulteration and misbranding of oysters. U. S. v. 304 Cans * * *. (F. D. C. No. 32108. Sample No. 3585-L.)

LIBEL FILED: November 16, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 14, 1951, by C. W. Howeth & Bro., from Crisfield, Md.

Product: 304 pint cans of oysters standards at Erie, Pa.

LABEL, IN PART: "Oysters Standards One Pint H & B Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards since it was not thoroughly drained.

DISPOSITION: December 19, 1951. Default decree of condemnation and destruction.

19127. Adulteration and misbranding of oysters. U. S. v. 67 Cans, etc. (F. D. C. No. 31957. Sample Nos. 3198-L, 3199-L.)

LIBEL FILED: November 2, 1951, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about October 23, 1951, by the Gloucester Seafood Packing Co., from Bena, Va.

Product: 67 pint cans of oysters standards and 152 pint cans of oysters selects at Wilmington, N. C.

Label, in Part: "Oysters Standards [or "Selects"] Duke of Gloucester Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters standards and oysters selects since it was not thoroughly drained.

DISPOSITION: February 11, 1952. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES*

CANNED FRUIT

19128. Misbranding of canned peaches. U. S. v. 48 Cases * * *. (F. D. C. No. 33240. Sample No. 18406-L.)

LIBEL FILED: May 20, 1952, District of Nevada.

ALLEGED SHIPMENT: On or about March 4, 1952, by Case-Swayne Co., Inc., from Santa Ana, Calif.

PRODUCT: 48 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Las Vegas, Nev.

LABEL, IN PART: "Santa Paula Ripe Elberta Sliced Yellow Freestone Peaches In Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (f), the information required by law to appear on the label, namely, a statement of the quantity of the contents, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use since it appeared in small print on the rear panel of the label.

Further misbranding, Section 403 (g) (2), the product was canned peaches, a food for which a definition and standard of identity has been prescribed by regulations; and its label failed to bear, as required by the standard, the name of the optional packing medium present since the label bore the statement "In Heavy Syrup," whereas the product was packed in light sirup.

Further misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peaches, and its label failed to bear a statement that it fell below the standard.

Disposition: August 15, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Federal Security Agency.

JAMS, JELLIES, AND PRESERVES

19129. Adulteration and misbranding of red raspberry jelly and pineapple preserves. U. S. v. Pelton's Spudnuts, Inc. (Martens Co.). Plea of nolo contendere. Fine of \$100. (F. D. C. No. 32753. Sample Nos. 7489-L, 7490-L.)

^{*}See also No. 19101.

INFORMATION FILED: July 21, 1952, Northern District of Ohio, against Pelton's Spudnuts, Inc., trading as the Martens Co., Cleveland, Ohio.

ALLEGED SHIPMENT: On or about July 10 and 13, 1951, from the State of Ohio into the State of Pennsylvania.

LABEL, IN PART: "Marco Pure Red Raspberry Jelly" and "Marco Pineapple Preserves."

NATURE OF CHARGE: Red raspberry jelly. Adulteration, Section 402 (b) (2), an article deficient in fruit juice and containing artificial coloring had been substituted for red raspberry jelly; and, Section 402 (b) (4), artificial coloring had been added to the product and mixed and packed with it so as to make it appear to be better or of greater value than it was. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for red raspberry jelly since it was made from a mixture composed of less than 45 parts by weight of the fruit juice ingredient, red raspberries, to each 55 parts by weight of one of the optional saccharine ingredients, and it contained artificial coloring, which is not permitted by the standard.

Pineapple preserves. Adulteration, Section 402 (b) (2), an article deficient in fruit and containing artificial coloring had been substituted for pineapple preserves; and, Section 402 (b) (4), artificial coloring had been added to the product and mixed and packed with it so as to make it appear to be better or of greater value than it was. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for pineapple preserves since it was made from a mixture composed of less than 45 parts by weight of the fruit ingredient, pineapple, to each 55 parts by weight of one of the optional saccharine ingredients, and it contained artificial coloring, which is not permitted by the standard.

DISPOSITION: October 17, 1952. A plea of nolo contendere having been entered, the court fined the defendant \$100.

19130. Adulteration and misbranding of jam. U. S. v. 48 Cases, etc. (F. D. C. No. 33181. Sample Nos. 35551-L to 35553-L, incl.)

LIBEL FILED: April 22, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about November 9, 1951, and February 1, 1952, by the Oelerich & Berry Co., from Chicago, Ill.

Product: 48 cases, each containing 12 2-pound jars, of strawberry-apple jam, and 18 cases, each containing 12 4-pound, 5-ounce pails, of assorted jams at Thief River Falls, Minn.

LABEL, IN PART: "Oelerich Nt. Wt. 2 Lbs. Fruit Maid Strawberry Apple Jam" or "Oelerich Net Weight 4 Lbs. 5 Oz. Fruit Maid Raspberry Apple [or "Grape Apple," "Strawberry Apple"] Jam."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), (48-case lot of straw-berry-apple jam and portion of 18-case lot of raspberry-apple jam and grape-apple jam) products deficient in fruit had been substituted for strawberry-apple jam, raspberry-apple jam, and grape-apple jam.

Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for strawberry-apple jam, raspberry-apple jam, and grape-apple jam since they were made from mixtures composed of less than 45 parts by weight of the fruit ingredient (strawberry-apple, raspberry-apple, or grape-apple) to each 55 parts by weight of one of the sweetening ingredients specified in the standard.

- DISPOSITION: June 13, 1952. Default decree of condemnation. The court ordered that the products be delivered to charitable organizations.
- 19131. Adulteration and misbranding of red raspberry jelly. U. S. v. 13 Cases * * *. (F. D. C. No. 33137. Sample No. 30293-L.)
- LIBEL FILED: May 19, 1952, District of Idaho.
- ALLEGED SHIPMENT: On or about January 28, 1952, by the Oelerich & Berry Co., from Chicago, Ill.
- PRODUCT: 13 cases, each containing 24 12-ounce jars, of red raspberry jelly at Boise, Idaho.
- Label, in Part: "Oelerich Old Manse * * * Pure Red Raspberry Jelly."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 65 percent soluble solids had been substituted for red raspberry jelly.

Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for red raspberry jelly since the soluble-solids content of the product was less than 65 percent.

DISPOSITION: June 17, 1952. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution.

VEGETABLES AND VEGETABLE PRODUCTS

- 19132. Adulteration and misbranding of canned kidney beans. U. S. v. 126 Cases * * *. (F. D. C. No. 32507. Sample No. 38512-L.)
- Libel Filed: February 14, 1952, Southern District of New York.
- ALLEGED SHIPMENT: On or about October 31, 1951, by D. E. Foote & Co., Inc., from Baltimore, Md.
- Product: 126 cases, each containing 24 1-pound, 4-ounce cans, of kidney beans at New York, N. Y.
- LABEL, IN PART: "Torino Brand Cannellini * * * White Kidney Beans * * * Packed by J. Ossola Co., New York, N. Y.-Pittsburgh, Phila., Pa.- Miami, Fla."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a variety of beans other than white kidney beans had been substituted in whole or in part for white kidney beans or Cannellini beans.

Misbranding, Section 403 (a), the label statements "Cannellini * * * White Kidney Beans * * * Packed by J. Ossola Co., New York, N. Y.-Pittsburgh, Phila., Pa.-Miami, Fla." were false and misleading since the product was a variety of beans other than white kidney beans and was packed by D. E. Foote & Co., Inc., Baltimore, Md.

- DISPOSITION: October 15, 1952. The J. Ossola Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Federal Security Agency.
- 19133. Adulteration of canned sauerkraut. U. S. v. James C. Crawford (Crawford Sauerkraut Co.). Plea of guilty. Fine of \$500. (F. D. C. No. 31571. Sample Nos. 6917–L, 6985–L.)
- Information Filed: December 6, 1951, Western District of New York, against James C. Crawford, a partner in the Crawford Sauerkraut Co., Canandaigua, N. Y.

- ALLEGED SHIPMENT: July 3 and 11, 1951, from the State of New York into the States of Pennsylvania and Ohio.
- Label, IN Part: "A & P Sauerkraut * * * The Great Atlantic and Pacific Tea Company, New York, N. Y., Distributor."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of flies, maggots, and other insects, and insect eggs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: January 28, 1952. A plea of guilty having been entered, the court fined the defendant \$500.
- 19134. Adulteration and misbranding of pickle chips. U. S. v. 494 Cases * * *. (F. D. C. No. 31903. Sample No. 11212-L.)
- LIBEL FILED: October 18, 1951, Northern District of Ohio.
- ALLEGED SHIPMENT: On or about May 3, 1951, by I. Miller Pickles, Inc., from North Tonawanda, N. Y.
- PRODUCT: 494 cases, each containing 4 1-gallon jars, of pickle chips at Cleveland, Ohio.
- LABEL, IN PART: "Bertman Sweet Crispy Pickle Chips One-half pint fluid."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for pickle chips.

Misbranding, Section 403 (d), the container was so made, formed, or filled as to be misleading; and, Section 403 (e) (2), the product was food in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (Examination disclosed that less than ¾ of the volume of the jars contained pickle chips, with the remainder consisting of brine.)

Disposition: September 3, 1952. The shipper, claimant, having admitted that the product was labeled inaccurately, the court entered judgment of condemnation ordering that the product be released under bond to be relabeled in compliance with the law and sold to institutions, under the supervision of the Food and Drug Administration.

TOMATOES AND TOMATO PRODUCTS

- 19135. Adulteration of canned tomatoes. U. S. v. 962 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 32302, 32362. Sample Nos. 7220-L, 7226-L.)
- LIBELS FILED: December 19, 1951, and January 11, 1952, Western District of Pennsylvania. (Libel of December 19, 1951, amended January 22, 1952.)
- ALLEGED SHIPMENT: On or about November 6 and 20 and December 12, 1951, by Howard Canning Co., Inc., from Pendleton, Ind.
- PRODUCT: 962 cases and 247 cases, each containing 6 6-pound, 6-ounce cans of tomatoes at Pittsburgh, Pa.
- LABEL, IN PART: (962-case-lot) "Premier Hand Packed Tomatoes"; (247-case lot) "Carson Quality Foods Tomatoes."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the 247-case lot consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggets; and the 962-case lot consisted in whole or in part of a

filthy substance by reason of the presence of fly eggs and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: August 29, 1952. Howard Canning Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed, under the supervision of the Food and Drug Administration. A total of 472 cases and 7 cans were segregated as bad and were delivered to the State hospital, for use as animal feed.

19136. Misbranding of canned tomatoes. U. S. v. 15 Cases * * *. (F. D. C. No. 32584. Sample No. 10836-L.)

LIBEL FILED: March 8, 1952, Southern District of Indiana.

ALLEGED SHIPMENT: On or about August 17, 1951, by the Old Black Joe Co., from Hohenwald, Tenn.

PRODUCT: 15 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Washington, Ind.

LABEL, IN PART: (Can) "Old Black Joe Net Contents 1 Lb. 3 Ozs. Hand Packed Tomatoes Packed By Green River Canneries, Inc., Madisonville, Kentucky."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled "1 Lb. 3 Oz."; and, Section 403 (h) (2), the product fell below the standard of fill of container for canned tomatoes.

DISPOSITION: June 20, 1952. Default decree of forfeiture and destruction.

19137. Adulteration of canned unpeeled plum tomatoes. U.S. v. 748 Cases * * *. (F. D. C. No. 30395. Sample No. 33789-K.)

LIBEL FILED: January 25, 1951, District of New Jersey.

ALLEGED SHIPMENT: On or about December 27, 1950, by Flotill Products, Inc., from Stockton, Calif.

Product: 748 cases, each containing 24 1-pound, 12-ounce cans, of unpeeled plum tomatoes at Newark, N. J.

LABEL, IN PART: (Cans) "La Gustosa Brand Unpeeled Plum Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: August 4, 1952. Flotill Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for separation of the fit from the unfit and for destruction of the latter as food for human consumption, under the supervision of a representative of the Federal Security Administrator. A total of 557 cases and 22 cans were segregated and destroyed.

19138. Adulteration of tomato juice. U. S. v. 96 Cases * * *. (F. D. C. No. 31999. Sample No. 5881–L.)

LIBEL FILED: December 6, 1951, District of Rhode Island.

ALLEGED SHIPMENT: On or about September 6, 1951, by Mason Canning Co., Inc., from Pocomoke City, Md.

PRODUCT: 96 cases, each containing 12 cans, of tomato juice at Woonsocket, R. I.

LABEL, IN PART: "Contents 1 Qt. 14 Fl. Oz. Sea View Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: February 8, 1952. Default decree of condemnation and destruction.

NUTS AND NUT PRODUCTS

19139. Adulteration of cashew nuts. U. S. v. 925 Cases * * *. (F. D. C. No. 31823. Sample Nos. 27065–L, 27380–L.)

LIBEL FILED: September 26, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about August 4, 1951, by Wm. A Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 925 cases, each containing 2 25-pound cans, of cashew nuts at San Francisco, Calif.

LABEL, IN PART: "Wholes 320 Count W. A. T. K. M. WAH New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: October 23, 1951. Wm. A. Higgins & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

On October 31, 1951, the decree was amended to permit the shipment of the product to Paterson, N. J., for salvage, and on February 29, 1952, the decree again was amended to permit the release of 1,506 tins of the product which were in compliance with the law. The remaining nuts were brushed and blown, and 8,050 pounds of these nuts were released as passable and 700 pounds were rejected and destroyed.

19140. Adulteration of pecan halves. U. S. v. 4 Cartons * * *. (F. D. C. No. 31975. Sample No. 25683-L.)

LIBEL FILED: November 1, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 14, 1951, by the Consolidated Pecan Sales Co., from Albany, Ga.

PRODUCT: 4 25-pound cartons of pecan halves at Shenandoah, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rancid and otherwise decomposed pecan meats.

DISPOSITION: January 21, 1952. Default decree of condemnation and destruction.

19141. Adulteration of peanut butter. U. S. v. Market Basket Corp. Plea of guilty. Fine of \$600. (F. D. C. No. 32789. Sample Nos. 6808-L to 6811-L, incl.)

Information Filed: July 7, 1952, Western District of New York, against the Market Basket Corp., Geneva, N. Y.

Alleged Shipment: On or about January 28 and 31, 1952, from the State of New York into the State of Pennsylvania.

LABEL, IN PART: "Cream of the Harvest Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 11, 1952. A plea of guilty having been entered, the court fined the corporation \$600.

POULTRY

19142. Adulteration of dressed poultry. U. S. v. 22,500 Pounds * * *. (F. D. C. No. 31742. Sample No. 24380–L.)

LIBEL FILED: September 28, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about September 16, 1951, by the Dodge-Freedman Poultry Co., from Concord, N. H.

PRODUCT: 22,500 pounds of dressed poultry in 314 crates at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds.

Disposition: October 29, 1951. The Dodge-Freedman Poultry Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. 9,383 pounds of the product were found unfit and were denatured for conversion into inedible oil.

19143. Adulteration of dressed poultry. U. S. v. 734 Pounds * * *. (F. D. C. No. 32016. Sample No. 25800–L.)

Libel Filed: November 9, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 30, 1951 by the H & H Poultry Co., from Selbyville, Del.

Product: 734 pounds of dressed poultry at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: December 27, 1951. The H & H Poultry Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the unfit portion be destroyed, under the supervision of the Food and Drug Administration. Samples of the product were delivered to the Food and Drug Administration, and the remainder was destroyed.

19144. Adulteration of dressed poultry. U. S. v. 13 Crates * * *. (F. D. C. No. 33329. Sample No. 49505–L.)

LIBEL FILED: July 7, 1952, Southern District of New York.

ALLEGED SHIPMENT: On or about June 19, 1952, by Poultryman's Cooperative of Connecticut, Inc., from Plainfield, Conn.

PRODUCT: 13 crates, each containing 57 pounds, of dressed poultry at New York, N. Y.

LABEL, IN PART: "P. C. C. Brand Prime Connecticut Chickens."

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: August 20, 1952. Default decree of condemnation and destruction.

19145. Adulteration of dressed turkeys. U. S. v. 200 Pcunds * * *. (F. D. C. No. 32011. Sample No. 38354-L.)

LIBEL FILED: November 28, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about October 18, 1951, by Nebraska Egg & Poultry Co., Inc., from David City, Nebr.

PRODUCT: 200 pounds of dressed turkeys in 4 crates at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter and crop material.

DISPOSITION: November 30, 1951. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Federal Security Agency and that the remainder be destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

19146. Adulteration of nutmegs. U. S. v. 50 Bags * * *. F. D. C. No. 32004. Sample Nos. 37197–L, 37202–L.)

Libel Filed: November 9, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about October 22, 1951, by McCormick & Co., from Baltimore, Md.

PRODUCT: 50 200-pound bags of nutmegs at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insectinfested nutmegs.

Disposition: December 18, 1951. William Burford, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by the segregation and the destruction of the unfit portion, under the supervision of the Food and Drug Administration. 8,662 pounds of nutmegs were salvaged, and 939 pounds were destroyed.

19147. Adulteration of chili peppers. U. S. v. 48 Bags, etc. (F. D. C. No. 32151. Sample Nos. 37540-L, 37541-L.)

LIBEL FILED: November 19, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about October 27, 1950, and January 17, 1951, from Mexico.

Product: Chili peppers. 48 112-pound bags and 41 41-pound bags at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: February 7, 1952. Charles T. Wilson Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond and be brought into compliance with the law by fumigating, sifting, and blowing, under the supervision of the Federal Security Agency. 6,552 pounds of the chili peppers were salvaged, and 1,102 pounds were destroyed.

19148. Adulteration of chili powder. U. S. v. 80 Pounds * * *. (F. D. C. No. 33101. Sample No. 14353-L.)

LIBEL FILED: May 14, 1952, District of Colorado.

ALLEGED SHIPMENT: On or about December 12, 1951, by the Arizona Chili Products, from Douglas, Ariz.

PRODUCT: 80 pounds of chili powder at Pueblo, Colo.

LABEL, IN PART: "Arizona Brand Elfrida Chili Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments.

Disposition: August 29, 1952. Default decree of condemnation and destruction.

19149. Adulteration and misbranding of lemon oil. U. S. v. 1 Drum * * * (and 3 other seizure actions). (F. D. C. Nos. 32480, 32506, 32525, 32526. Sample Nos. 3427-L, 3606-L, 23141-L, 23142-L.)

LIBELS FILED: January 31, and February 11, 13, and 14, 1952, District of Maryland and District of New Jersey.

ALLEGED SHIPMENT: On or about January 2, 7, 8, and 21, 1952, by P. R. Dreyer, Inc., from New York, N. Y.

PRODUCT: Lemon oil. 2 drums containing a total of 790 pounds at Baltimore, Md., 1 drum containing 400 pounds at Morris Plains, N. J., and 2 cans, each containing 25 pounds, at Bloomfield, N. J.

LABEL, IN PART: (Drums) "Oil Lemon California CP USP" and (2 drums labeled further) "For M'fg. Only"; (cans) "Cold Pressed Oil Lemon Extra Fine USP."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an oil other than oil expressed from the peel of lemons had been substituted in whole or in part for lemon oil U. S. P.

Misbranding, Section 403 (a), the statement, "Oil Lemon * * * USP," borne on the drums and the cans was false and misleading as applied to a product other than one expressed from the peel of lemons.

Disposition: September 26 and 29, 1952. P. R. Dreyer, Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered. The court ordered that the product be released under bond, conditioned that it be denatured, under the supervision of the Federal Security Agency so that it could not be used either as a food, or a drug, or in the manufacture of food or drug products.

19150. Adulteration and misbranding of french dressing. U. S. v. 7 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 32668, 32669. Sample Nos. 16580-L to 16582-L, incl.)

LIBELS FILED: February 18, 1952, Western District of Missouri.

ALLEGED SHIPMENT: On or about February 1, 1952, by the Gables Famous French Dressing Co., from Hutchinson, Kans.

PRODUCT: French dressing. 7 cases, each containing 4 1-gallon bottles, and 49 cases, each containing 24 8-ounce bottles, at St. Joseph, Mo., and 99 cases, each containing 24 8-ounce bottles, at Kansas City, Mo.

LABEL, IN PART: "Gables Famous French Dressing."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vegetable oil, had been in whole or in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil.

DISPOSITION: June 24, 1952. Default decrees were entered and the court ordered that the product be delivered to charitable institutions.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 19101 TO 19150 PRODUCTS

TRODUCTS		
	N. J. No.	N. J. No.
Beans, kidney, canned	19132	Fruits and vegetables—Continued
Beer	19102	fruits, canned—Continued
Beverages and beverage m		jams, jellies, and pre-
rials ^{1, 2} 19	9101-19104	serves 19129–19131
Bireley's orange beverage	² 19101	tomatoes and tomato prod-
Brewers rice grits	19115	ucts 19135-19138
Butter 19	9116–19120	vegetables and vegetable prod-
Candy	19105	ucts 19132–19134
Cashew nuts	19139	Grape-apple jam 19130
Cereals and cereal products	19108-	Jams, jellies, and preserves 19129-
	1 9115	19131
Cheese, cottage	19122	Jelly. See Jams, jellies, and
grated	19121	preserves.
process	1912 3	Kidney beans, canned 19132
Chili peppers	19147	Kipper snacks, canned 19125
powder	19148	Lemon oil 19149
Coffee concentrate 19	9103, 19104	Milk, skim, condensed 19122
Cornmeal, enriched	19108	Nutmegs 19146
Cottage cheese	19122	Nuts and nut products 19139-19141
Cream		Orange beverage, Bireley's 219101
Dairy products 19	9116–19123	Oysters 19126, 19127
Egg powder		Peaches, canned 19128
Enriched cornmeal		Peanut butter 19141
Fish and shellfish 19	0124-19127	Pecan halves19140
Flavors. See Spices, flavors,	and	Peppers, chili 19147
seasoning materials.		Pickle chips 19134
Flour 19		Pineapple preserves 19129
French dressing		Pollack, frozen 19124
Fruits and vegetables	· ·	Poultry, dressed 19142-19145
19	9128–19138	Preserves. See Jams, jellies,
fruit, canned	19128	and preserves.

¹ (19102) Prosecution contested. Contains opinion of the court.

a (19101) Seizure contested. Contains opinions of the courts.

	N. J. No.	N. J. No.
Process cheese	19123	Spices, flavors, and seasoning
Raspberry jelly	19129, 19131	materials 19146-19150
-apple jam	19130	Strawberry-apple jam 19130
Rice	19112-19114	Tomato(es), canned 19135, 19136
grits, brewers	19115	juice 19138
Sauerkraut, canned	19133	plum, unpeeled, canned 19137
Shellfish. See Fish and shellfish.		Turkeys. See Poultry.
Sirup, sorghum	19106, 19107	Vegetables. See Fruits and vege-
Sorghum sirup	19106, 19107	tables.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

72	I. J. No.	N. J. No.
American Dairies, Inc.:		Foremost Dairies, Inc.:
butter	19118	cottage cheese, cream, and
Arizona Chili Products:		condensed skim milk 19122
chili powder	19148	Gables Famous French Dress-
Atlantic & Pacific Tea Co.:		ing Co.:
canned sauerkraut	. 19133	french dressing 19150
Atlantic Brewing Co.:		Gloucester Seafood Packing Co.:
beer	19102	oysters 19127
Beatrice Foods Co.:		Goldenberg, Benjamin:
butter	19116	egg powder and butter 19119
Bireley's, Inc.:		Green River Canneries, Inc.:
Bireley's orange beverage	² 19101	canned tomatoes 19136
Blackburn, T. J.:		H & H Poultry Co.:
sorghum sirup	19106	dressed poultry 19143
Case-Swayne Co., Inc.:		Higgins, Wm. A., & Co., Inc.:
canned peaches	19128	cashew nuts 19139
Consolidated Pecan Sales Co.:		Hillman, Buck:
pecan halves	19140	sorghum sirup 19107
Crawford, J. C.:		Holmen Cooperative Creamery
canned sauerkraut	19133	Association:
Crawford Sauerkraut Co. See		butter 19120
Crawford, J. C.		Homaid Brands, Inc.:
Dodge-Freedman Poultry Co.:		butter 19118
dressed poultry	19142	Howard Canning Co., Inc.:
Dreyer, P. R., Inc.;		canned tomatoes 19135
lemon oil	19149	Howeth, C. W., & Bro.:
Esterex Co. See Sethness, C. O.,		oysters19126
2d, and W. D.		Icco Cheese Co., Inc.:
Farmers Cooperative Creamery:		grated cheese 19121
butter	19117	King Cole Breweries, Inc.:
First National Stores, Inc.:		beer 19102
butter	19120	Lakeview Dairy Products, Inc.:
Flotill Products, Inc.:		egg powder and butter 19119
canned unpeeled plum toma-		Lansaw, J. L., and Roy:
toes	19137	
Foote, D. E., & Co., Inc.:		McCormick & Co.:
canned kidney beans	19132	nutmegs 19146

^{2 (19101)} Seizure contested. Contains opinions of the courts.

N	J. No.	N. J. No.
Market Basket Corp.:		Ossola, J., Co.:
peanut butter	19141	canned kidney beans 19132
Martens Co. See Pelton's Spud-		Pelton's Spudnuts, Inc.:
nuts, Inc.		raspberry jelly and pineapple
Mason Canning Co., Inc.:		preserves 19129
tomato juice	19138	Poultryman's Cooperative of Con-
Master Bakers Supply, Inc.:		necticut, Inc.:
flour	19109	dressed poultry 19144
Melster Candies, Inc.:		Schreiber, L. D., & Co., Inc.:
candy	19105	process cheese19123
Miller, I., Pickles, Inc.:		Sethness, C. O., 2d, and W. D.:
pickle chips	19134	beer19102
Millstream Cereal Co.:		Sethness, C. O., & W. D., Co.:
cornmeal	19108	beer19102
Nebraska Egg & Poultry Co., Inc.:		Sexton, John, & Co.:
dressed turkeys	19145	grated cheese 19121
Oelerich & Berry Co.:		Wolff, John, & Sons:
jam, assorted	19130	flour19110
jelly, raspberry:	19131	
Old Black Joe Co.:		
canned tomatoes	19136	

^{1 (19102)} Prosecution contested. Contains opinion of the court.

MILE OF THE PARTIES.

2002 7711



The Primary Source of Administrative Law

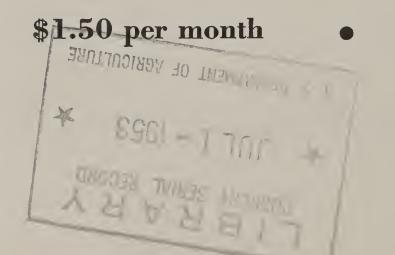
The Federal Register publishes the full text of administrative law as it is created from day to day by Federal executive agencies. This official publication contains proclamations, Executive orders, and regulations of general applicability and legal effect. It is the key to the following subjects and many more in the field of administrative law:

Agriculture
Aliens
Atomic Energy
Aviation
Business Credit
Communications
Customs
Fair Trade Practice
Food and Drugs
Foreign Relations
and Trade
Housing
Labor Relations

Marketing
Military Affairs
Money and Finance
Patents
Public Contracts
Public Lands
Securities
Shipping
Social Security
Taxation
Transportation
Utilities
Veterans' Affairs
Wages and Hours

A SAMPLE COPY AND INFORMATION MAY BE OBTAINED ON REQUEST TO THE FEDERAL REGISTER, NATIONAL ARCHIVES, WASHINGTON 25, D. C.

Order from the Superintendent of Documents, United
States Government Printing Office,
Washington 25, D. C.



\$15 per year

32NJ-

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

19151-19200

FOODS

CURRENT SERIAL FILLUM

\$\text{\$\Delta}\$ JUL 1 4 1953

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. Published by direction of the Secretary of Health, Education, and Welfare.

CHARLES W. CRAWFORD, Commissioner of Food and Drugs. Washington, D. C., June 18, 1953.

CONTENTS

	Page	Page
Cereals and cereal products	82	Fruits and vegetables—Continued
Bakery products	82	Fruit butter and preserves 90
Flour	82	Vegetables and vegetable prod-
Miscellaneous cereal products	83	ucts 91
Chocolate, sugar, and related prod-		Tomatoes and tomato products 93
ucts	85	Nuts 97
Dairy products	86	Poultry 98
Butter	86	Spices, flavors, and seasoning ma-
Cheese	87	terials99
Feeds and grains	87	Vitamin, mineral, and other prod-
Fish and shellfish	88	ucts of special dietary signifi-
Fruits and vegetables	90	cance 101
Dried fruit	90	Index 102

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS*

- 19151. Adulteration of bread, rolls, and cake. U. S. v. Chester C. Lickey (Hossick Bakery), and Vernon C. Ort. Pleas of nolo contendere. Each defendant fined \$400, together with costs. (F. D. C. No. 32778. Sample Nos. 33631-L, 33635-L, 33638-L, 33642-L.)
- INFORMATION FILED: May 27, 1952, Northern District of Indiana, against Chester C. Lickey, trading as the Hossick Bakery, at Elkart, Ind., and Vernon C. Ort, superintendent of the bakery.
- ALLEGED SHIPMENT: On or about December 20, 1951, from the State of Indiana into the State of Michigan.
- LABEL, IN PART: "Sugar Loaf Bread," "Hossick's Applekuken Rolls," "Hossick's Butterscotch Nut Cake," or "Hossick's Cake."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects and insect fragments in certain of the articles and rodent hairs in others; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.
- DISPOSITION: September 8, 1952. Pleas of nolo contendere having been entered, the court imposed fines of \$100 on each of the 4 counts against each of the defendants, totaling \$800, together with costs.
- 19152. Adulteration of cookies. U. S. v. Dolly May Cookie Co., Inc. Plea of guilty. Fine, \$1,000. Defendant placed on probation for 2 years. (F. D. C. No. 32768. Sample Nos. 18887-L, 35380-L, 35381-L.)
- Information Filed: April 3, 1952, District of Minnesota, against Dolly May Cookie Co., Inc., Minneapolis, Minn.
- ALLEGED SHIPMENT: On or about September 14 and 19, 1951, from the State of Minnesota into the States of Iowa and South Dakota.
- LABEL, IN PART: "Dolly May Cookies Raisin Ginger [or "Coconut Bars" or "Fruit Gem"]."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of flies, larvae, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: November 28, 1952. A plea of guilty having been entered, the court fined the defendant \$1,000 on 1 count of the information, suspended sentence on the other 2 counts, and placed the defendant on probation for 2 years.

FLOUR**

- 19153. Adulteration of flour. U. S. v. 51 Bags, etc. (F. D. C. No. 32646. Sample Nos. 14056-L, 14057-L.)
- LIBEL FILED: February 4, 1952, Western District of Texas.
- ALLEGED SHIPMENT: On or about November 17, 1951, from Lamar, Colo.

^{*}See also No. 19155.

^{**}See also No. 19156.

PRODUCT: 51 50-pounds bags and 26 25-pound bags of flour at El Paso, Tex., in possession of the American Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: March 6, 1952. The American Grocery Co. having appeared as claimant, judgment of condemnation was entered and the court ordered that the goods be released under bond to be denatured and labeled as unfit for human consumption under the supervision of the Food and Drug Administration.

19154. Adulteration and misbranding of enriched flour. U. S. v. 1,223 Bags * * *. (F. D. C. No. 32600. Sample No. 4653-L.)

LIBEL FILED: January 17, 1952, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about December 12, 1951, by the Blair Milling Co., from Atchison, Kans.

PRODUCT: 1,223 25-pound bags of enriched flour at Charleston, W. Va.

LABEL, IN PART: "Enriched 8 Oz. of Enriched Flour Contain Not Less Than the Following Proportions of the Minimum Daily Requirements of Vitamin B₁ 100%, Riboflavin 30%, Iron 65%, and 8 Mg. of Niacin. Moon Rose Hard Wheat Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin B₁, riboflavin, iron, and niacin, had been in part omitted from the product.

Misbranding, Section 403 (a), the label statement "8 Oz. of Enriched Flour Contain Not Less Than the Following Proportions of the Minimum Daily Requirements of Vitamin B₁ 100%, Riboflavin 30%, Iron 65%, and 8 Mg. of Niacin" was false and misleading since the product contained less than the declared amounts of vitamin B₁, riboflavin, iron, and niacin.

DISPOSITION: March 21, 1952. The Blair Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was brought into compliance with the law by the addition of enriching ingredients.

MISCELLANEOUS CEREAL PRODUCTS

19155. Adulteration of popped popcorn, alleged adulteration of potato chips and Fritos, and alleged misbranding of popped popcorn. U. S. v. So Good Potato Chip Co. and Edward C. Causino. Motion of defendants for return of seized goods and suppression of evidence overruled. Motion of defendants for dismissal of counts 1, 2, 3, 6, and 7 also overruled. Pleas of nolo contendere to counts 1 and 5. Motion of Government for dismissal of counts 2, 3, 4, 6, and 7 granted. Fine of \$750 against company and \$200 against individual. (F. D. C. No. 31078. Sample Nos. 78039-K, 78040-K, 93802-K, 93804-K, 31456-L, 31457-L.)

Information Filed: April 23, 1951, Eastern District of Missouri, against the So Good Potato Chip Co., a partnership, St. Louis, Mo., and Edward C. Causino, plant manager.

ALLEGED SHIPMENT: On or about December 4, 1950, and January 15, 1951, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "So Good Pop Corn * * * Net Weight 5 Ounces [or "2 Ounces"]," "Potato Chips * * * Net Wt. 6 Oz.," and "Fritos * * * Net Wt. 4½ Oz."

NATURE OF CHARGE: Adulteration of popcorn (counts 1 and 5), Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent hair fragments, larvae, insect fragments, larval cast skins, and pupae; and, Section 402 (a) (4), a portion of the popcorn had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Alleged misbranding of popcorn (counts 2, 6, and 7), Section 403 (e) (2), portions of the popcorn failed to bear labels containing an accurate statement of the quantity of the contents. The labels on such portions bore the statement "Net Weight 5 Ounces," which statement was inaccurate since the net weight of the packages containing such portions was less than 5 ounces.

Alleged adulteration of potato chips and Fritos (counts 3 and 4), Section 402 (a) (3), the articles consisted in part of a filthy substance by reason of the presence of rodent hair fragments, psocids, larvae, and insect fragments; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: The defendants entered a plea of not guilty on May 3, 1951. On May 15, 1951, a motion for the return of the seized property and the suppression of evidence was filed on behalf of the defendants on the basis that permission to enter and inspect the factory premises of the company had not been given by an authorized person. The matter came on for hearing on or about June 19, 1951, after which the matter was taken under advisement by the court for consideration of the arguments and briefs of counsel. On August 28, 1951, the court entered an order overruling the motion.

The defendants, on September 6, 1951, submitted a request for portions of the samples collected from the shipments alleged in the information. Pursuant to this request, portions of the samples were furnished from the shipments alleged in counts 4 and 5. No portion of the samples involved in the other counts of the information was furnished. Thereafter, the defendants filed a motion to dismiss counts 1, 2, 3, 6, and 7, based upon the Government's refusal to furnish portions of the samples, as required by Section 702 (b) of the Act [21 U. S. C. 372 (b)]; and on or about September 21, 1951, a hearing was held in the matter. During the hearing, the defendants were offered a portion of the sample of the popcorn from the shipment involved in counts 1 and 2. It was pointed out, however, that for the purposes of the misbranding charge against such shipment, as alleged in count 2, such sample portion was not suitable to make a check analysis for net weight. Briefs subsequently were filed by counsel for the parties, and after consideration thereof, the court, on December 21, 1951, overruled the defendants' motion and made the following comments:

HARPER, District Judge: "I am today entering an order overruling the defendant's motion to dismiss Counts 1, 2, 3, 6 and 7 of the Information. I think that the 9th Circuit Court of Appeals in the Triangle Company case, 44 Fed. 2nd 195, correctly stated the law with respect to Section 372 (b) of Title 21.

However, I do not believe that this section applies to Counts 2, 6 and 7 for the reason that I do not understand that 'analysis' has any reference to weighings.

"With reference to Counts 1 and 3, while I am overruling the motion, this letter will serve to put the plaintiff on notice that unless Section 372 (b) is complied with that when this matter is reached for trial I will entertain a

motion to dismiss those two and will dismiss them.

"With respect to Count 1, the plaintiff admits that the defendant's request can be complied with. With respect to Count 3, the plaintiff's testimony discloses that it could not be complied with. In this particular instance the testimony disclosed that there were twice as many bags of the potato chips as there were of the popcorn collected, and had the same judgment been used with respect to the potato chips as was used with respect to the popcorn, 372 (b) could have been complied with. The fact that they used it all when the testimony disclosed there were six samples would indicate that they could have complied with the section had they wanted to, and while the sample they have now may not serve the purposes, unless it does so, when the trial is reached upon the proper motion I will strike the count."

On March 21, 1952, the defendants entered pleas of nolo contendere to counts 1 and 5 of the information, and upon the motion of the United States attorney, the court dismissed counts 2, 3, 4, 6, and 7 and imposed a fine of \$750 against the company and a fine of \$200 against the individual.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

19156. Adulteration of cocoa beans, sugar, chocolate, coconut, shelled almonds, raisins, and rice flour. U.S. v. 8 Bags, etc. (F. D. C. No. 32553. Sample Nos. 26200-L, 26201-L, 26203-L to 26209-L, incl.)

Libel Filed: February 27, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of November 17, 1948, and January 24, 1952, from New York, N. Y., Rochester, N. Y., Newark, N. J., Hoboken, N. J., Fresno, Calif., and Trinidad.

PRODUCT: 8 200-pound bags of cocoa beans, 2,420 100-pound bags of sugar, 77 200-pound bags of chocolate, 11 100-pound bags of coconut, 15 80-pound bags of shelled almonds, 140 30-pound bags of raisins, and 8 100-pound bags of rice flour, at Reading, Pa., in the possession of Luden's, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects in the cocoa beans, rodent excreta in the sugar, chocolate, coconut, shelled almonds, and rice flour, and insects in the raisins; the cocoa beans consisted in part of a decomposed substance by reason of the presence of mold.

Further adulteration, Section 402 (a) (4), the products had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 22, 1952. Default decree of condemnation and destruction.

19157. Adulteration of cocoa beans. U. S. v. 298 Bags * * * . (F. D. C. No. 33102. Sample No. 33352-L.)

LIBEL FILED: April 29, 1952, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about May 9, 1951, from New York, N. Y.

PRODUCT: 298 bags, each containing 130 pounds, of cocoa beans at Milwaukee, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insectinfested cocoa beans, and of a decomposed substance by reason of the presence of moldy cocoa beans. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: October 7, 1952. The Ambrosia Chocolate Co., Milwaukee, Wis., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of salvaging and making it fit for human consumption or, in the alternative, for the purpose of recovering theobromine and other nonedible substances, under the supervision of the Federal Security Agency. Approximately 1,000 pounds of the product were found unfit and were destroyed as a result of the salvaging operations.

19158. Adulteration of glace fruit. U. S. v. 100 Cartons, etc. (F. D. C. No. 33194. Sample No. 3906-L.)

LIBEL FILED: On or about April 21, 1952, District of Maryland.

ALLEGED SHIPMENT: On or about March 4, 1952, by the Garden Fruit Specialties, from Lakeland, Fla.

PRODUCT: Glace fruit. 100 40-pound cartons and 97 37-pound cartons at Baltimore, Md.

LABEL, IN PART: "Dried Preserved Peel and Fruit Creole Mix."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

DISPOSITION: May 16, 1952. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

19159. Adulteration of butter. U. S. v. 98 Boxes (6,272 pounds) * * * (F. D. C. No. 31489-A. Sample No. 65193-L.)

LIBEL FILED: October 2, 1952, District of Minnesota.

ALLEGED SHIPMENT: On or about September 17, 1952, by the Scandinavian Coop. Creamery Co., from Viborg, S. Dak.

Product: 98 64-pound boxes of butter at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, setae, manure, mites, and feather fragments, and by reason of the preparation of the article from filthy cream.

Disposition: February 4, 1953. The Scandinavian Coop. Creamery Co. having filed an answer denying that the product was adulterated as alleged in the libel and later having agreed to the disposition of the product to a rendering plant, judgment was entered providing for the destruction of the product unless disposed of by the marshal for rendering purposes.

19160. Adulteration of butter. U. S. v. Linton Creamery Co., Inc., Steven C. Thomas, and Elmer R. Schultz. Pleas of guilty. Corporation and Elmer R. Schultz each fined \$400 and Steven C. Thomas \$100, together with costs. (F. D. C. No. 31593. Sample No. 9438-L.)

- INFORMATION FILED: February 15, 1952, District of North Dakota, against Linton Creamery Co., Inc., Linton, N. Dak., Steven C. Thomas, manager and secretary-treasurer, and Elmer R. Schultz, president.
- ALLEGED SHIPMENT: On or about September 29, 1951, from the State of North Dakota into the State of Wisconsin.
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1); a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.
- DISPOSITION: August 12, 1952. Pleas of guilty having been entered, the corporation and Elmer R. Schultz were each fined \$400 and Steven C. Thomas \$100, together with costs.

CHEESE

- 19161. Adulteration of Cheddar cheese. U. S. v. Marion County Cooperative Association. Plea of nolo contendere. Fine of \$100 suspended and defendant placed on probation. (F. D. C. No. 31556. Sample No. 32009-L.)
- Information Filed: October 8, 1951, Western District of Arkansas, against the Marion County Cooperative Association, a corporation, Yellville, Ark.
- ALLEGED SHIPMENT: Between July 3 and 6, 1951, from the State of Arkansas into the State of Missouri.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of manure fragments, insect fragments, and rodent hair fragments, and by reason of the use of dirty milk in the preparation of the article; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.
- DISPOSITION: March 17, 1952. A plea of nolo contendere having been entered, the court imposed a fine of \$100, which was suspended, and placed the corporation on probation.

FEEDS AND GRAINS

- 19162. Adulteration and misbranding of hog feed. U. S. v. O. A. Cooper Co. Plea of nolo contendere. Fine, \$200, and costs. (F. D. C. No. 32755. Sample No. 379-L.)
- INFORMATION FILED: May 23, 1952, District of Nebraska, against the O. A. Cooper Co., a corporation, Humboldt, Nebr.
- ALLEGED SHIPMENT: On or about August 6, 1951, from the State of Nebraska into the State of Kansas.
- LABEL, IN PART: "Cooper * * * 40% Hog Balancer Guaranteed Analysis Crude Protein, not less than 40.00%."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 40 percent of protein had been substituted in whole or in part for a product containing 40 percent of protein.
 - Misbranding, Section 403 (a), the label statement "Guaranteed Analysis Crude Protein, not less than 40.00%" was false and misleading.
- Disposition: May 28, 1952. A plea of nolo contendere having been entered, the court fined the defendant \$200, together with costs.

- 19163. Misbranding of dog food. U. S. v. John L. Becher. Plea of guilty. Defendant placed on probation for 1 year. (F. D. C. No. 30561. Sample No. 38744–K.)
- INFORMATION FILED: April 29, 1952, Eastern District of Michigan, against John L. Becher, president of the Michigan Dog Food Sales Co. and the Michigan Food Supply Co., Center Line, Mich.
- ALLEGED SHIPMENT: Between the approximate dates of January 13 and April 4, 1950, from the State of Michigan into the State of Ohio.
- LABEL, IN PART: "L M N Dog Food Diet L * * * Prepared For Elemental Dog Food Co. Bedford, Ohio."
- NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Protein Minimum . . . 10.0%" was false and misleading since the article contained less than 10 percent of protein.
- DISPOSITION: June 26, 1952. A plea of guilty having been entered, the court placed the defendant on probation for 1 year.

FISH AND SHELLFISH

- 19164. Adulteration of canned kipper snacks. U. S. v. 50 Cartons * * *. (F. D. C. No. 33349. Sample No. 38744-L.)
- LIBEL FILED: July 14, 1952, District of Columbia.
- ALLEGED SHIPMENT: On or about May 13 and 26, 1952, from New York, N. Y.
- PRODUCT: 50 cartons, each containing 50 3¼-ounce cans, of kipper snacks at Washington, D. C.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish. The product was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: September 29, 1952. Chr. Bjelland & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 29 cases and 4 cans of the product were salvaged, and 7 cases and 45 cans were destroyed. (37 cases actually were seized.)
- 19165. Adulteration of fish roe. U. S. v. 4 Barrels * * *. (F. D. C. No. 33330. Sample No. 23248-L.)
- LIBEL FILED: July 7, 1952, Southern District of New York.
- ALLEGED SHIPMENT: Between March 27 and May 9, 1952, by J. A. Klafin, from Chicago, Ill.; by Henry Hansen and E. Weborg, from Ellison Bay, Wis.; by Jos. Schmidt, from Algoma, Wis.; and by Ralf Schraeder, from Two Rivers, Wis.
- Product: 4 250-pound barrels of fish roe at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.
- DISPOSITION: August 21, 1952. Default decree of condemnation and destruction.

- 19166. Misbranding of whitefish caviar. U. S. v. 5 Cases, etc. (F. D. C. No. 32984. Sample Nos. 8968–L, 8969–L.)
- LIBEL FILED: March 28, 1952, Northern District of Illinois.
- Alleged Shipment: On or about February 7, 1952, by Smith Bros., from Port Washington, Wis.
- PRODUCT: Whitefish caviar. 5 cases, each containing 24 jars, and 4 cases, each containing 12 jars, at Lake Forest, Ill.
- LABEL, IN PART: "Land O'Lakes Brand Whitefish Caviar Net Weight 3-1/2 Oz." [or "Net Weight 8 Oz."].
- NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than the declared net weight.)
- Disposition: September 18, 1952. Default decree of condemnation. The court ordered that the product be delivered to a Government hospital.
- 19167. Adulteration of oysters. U. S. v. Wayside Markets, Inc., and Arville P. Kuhlman. Pleas of guilty. Corporation fined \$200 and costs; individual defendant fined \$100. (F. D. C. No. 32764. Sample Nos. 33948–L, 34040–L, 34041–L, 34043–L.)
- Information Filed: March 27, 1952, Eastern District of Missouri, against Wayside Markets, Inc., Rock Hill, Mo., and Arville P. Kuhlman, president.
- ALLEGED VIOLATION: The defendant received, at Rock Hill, Mo., a number of cans of oysters which had been shipped in interstate commerce from the State of New York. While the product was being held for sale after shipment in interstate commerce, the defendant, within the period from on or about November 16, 1951, to on or about November 20, 1951, caused a quantity of water to be added to the cans of oysters.
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance, added water, had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the food and mixed with it so as to increase its bulk and reduce its quality.
- DISPOSITION: April 11, 1952. Pleas of guilty having been entered, the court fined the corporation \$200 and costs and the individual defendant \$100.
- 19168. Adulteration and misbranding of oysters. U. S. v. 304 Cans * * *. (F. D. C. No. 32604. Sample No. 26195-L.)
- Libel Filed: January 18, 1952, Western District of Wisconsin.
- ALLEGED SHIPMENT: On or about January 15, 1952, by F. F. East, Inc., from Maurice River, N. J.
- Product: 304 pint cans of oysters at Eau Claire, Wis. Examination disclosed that the article contained added water.
- Label, in Part: "Oysters Standards One Pint Sailor Boy Brand."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.
 - Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for oysters standards since it was not thoroughly drained.

The amount of water used in the vessel into which the oysters were shucked was more than that permitted, and the oysters were in contact with water for more than 30 minutes after leaving the shucker.

DISPOSITION: February 16, 1952. A default decree of condemnation was entered, and the court ordered that the product be delivered to a charitable organization.

FRUITS AND VEGETABLES

DRIED FRUIT*

- 19169. Adulteration of pitted dates. U. S. v. Seng Terminal Warehouse Co. Plea of guilty. Fine, \$1,000, plus costs. (F. D. C. No. 32792. Sample No. 33854–L.)
- Information Filed: September 4, 1952, Northern District of Illinois, against the Seng Terminal Warehouse Co., Chicago, Ill.
- Alleged Violation: On November 21, 1951, the defendants received at Chicago, Ill., a number of boxes of pitted dates which had been shipped from New York, N. Y.

Within the period from on or about November 21, 1951, to on or about March 5, 1952, while the dates were being held for sale after shipment in interstate commerce, the defendant placed the dates in a building that was accessible to rodents and infested with rodents, and caused the food to be exposed to contamination by rodents.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs and rodent-gnawed dates; and, Section 402 (a) (4), it was held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 31, 1952. A plea of guilty having been entered, the court fined the defendant \$1,000 and costs.

FRUIT BUTTER AND PRESERVES

- 19170. Adulteration of apple butter. U. S. v. Salomo Food Products Co. and Arthur H. Pieske and Frank Kuhlman. Pleas of nolo contendere. Corporation fined \$600 and costs; each individual defendant fined \$200. (F. D. C. No. 32765. Sample Nos. 31335-L, 31336-L.)
- Information Filed: March 26, 1952, Eastern District of Missouri, against the Salomo Food Products Co., a corporation, St. Louis, Mo., and Arthur H. Pieske, president, and Frank Kuhlman, secretary-treasurer.
- ALLEGED SHIPMENT: On or about October 9 and November 1, 1951, from the State of Missouri into the State of Illinois.
- LABEL, IN PART: "C. W. Pure Apple Butter * * * Distributed by Tri-City Grocery Co. Granite City, Ill."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvae head capsules, mites, rodent hair and insect fragments, fly eggs, fruit fly heads, feather barbules, and fly maggots; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

^{*}See also No. 19156.

- DISPOSITION: April 4, 1952. Pleas of nolo contendere having been entered, the court fined the corporation \$600, plus costs, and each individual defendant \$200.
- 19171. Misbranding of preserves. U. S. v. 16 Cases, etc. (F. D. C. No. 33347. Sample Nos. 29228-L to 29230-L, incl., 29330-L to 29332-L, incl., 29334-L.)
- LIBEL FILED: July 28, 1952, Eastern District of Washington.
- ALLEGED SHIPMENT: Between the approximate dates of March 21 and June 5, 1952, by the Oswego Jelly Co., from Oswego, Oreg.
- Product: 57 cases, each containing 24 12-ounce jars, of preserves at Spokane, Wash.
- LABEL, IN PART: "Oregon Hills Brand Pure Strawberry [or "Seedless Black-cap," "Mountain Wild Blackberry," or "Tomatoe"] Preserves."
- Nature of Charge: Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for fruit preserves since they were not concentrated by heat to such a point that the soluble solids content of the finished preserves was not less than 68 percent, and since the tomato preserves contained added artificial coloring, which is not permitted as an ingredient in the standard; and, Section 403 (k), the tomato preserves contained added artificial coloring and failed to bear labeling stating that fact.
- DISPOSITION: August 7, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed and relabeled, under the supervision of the Federal Security Agency.

VEGETABLES AND VEGETABLE PRODUCTS*

- 19172. Adulteration of dried black-eyed beans and dried lima beans. U. S. v. 40 Bags * * * (and 1 other seizure action). (F. D. C. No. 31622. Sample Nos. 29474–L, 30047–L.)
- LIBELS FILED: On or about August 15, 1951, Western District of Washington. Alleged Shipment: On or about March 25 and April 6, 1951, from San Fran-

cisco and Sacramento, Calif.

- Product: 40 100-pound bags of dried black-eyed beans and 16 100-pound bags of dried lima beans at Seattle, Wash., in the possession of the Ames Terminal Co.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine and rodent hairs; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: November 24, 1952. Default decrees of condemnation. The court ordered that the products be delivered to an institution, for use as animal feed.
- 19173. Adulteration of dried lima beans and dried small white beans. U. S. v. 159 Bags * * * (and 2 other seizure actions). (F. D. C. No. 31612. Sample Nos. 30044–L to 30046–L, incl.)

^{*}See also No. 19155.

Libels Filed: August 13, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about November 6, 1950, and April 27 and May 15, 1951, from San Francisco and Oxnard, Calif.

Product: 187 100-pound bags of dried lima beans and 66 100-pound bags of dried small white beans at Seattle, Wash., in the possession of the Ames Terminal Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

Disposition: On December 5, 1951, the J. R. Green Co., Seattle, Wash., claimant for 2,800 pounds of the dried lima beans, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 100 pounds were released to the claimant and the remainder utilized in the manufacture of animal feed. On July 29 and November 24, 1952, no claimant having appeared for the remainder of the products, default decrees of condemnation and destruction were entered.

19174. Adulteration of dried white beans. U. S. v. 246 Bags * * *. (F. D. C. No. 31470. Sample Nos. 30254–L, 30256–L.)

LIBEL FILED: August 13, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about April 30, 1951, from Sacramento, Calif.

PRODUCT: 246 100-pound bags of dried beans at Seattle, Wash., in the possession of the Ames Terminal Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

Disposition: November 24, 1952. Default decree of condemnation. The court ordered that the product be delivered to an institution, for use as animal feed.

19175. Misbranding of fresh mushrooms. U. S. v. John Accorsi & Sons. Plea of guilty. Fine, \$100. (F. D. C. No. 32783. Sample Nos. 26233-L, 26664-L.)

INFORMATION FILED: April 15, 1952, District of Delaware, against John Accorsi & Sons, a partnership, Hockessin, Del.

ALLEGED SHIPMENT: On or about December 6, 1951, and January 17, 1952, from the State of Delaware into the State of New York.

Label, in Part: "Mushrooms 3 Lbs. Net."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the baskets of mushrooms contained less than the labeled "3 Lbs. Net."

DISPOSITION: April 24, 1952. A plea of guilty having been entered, the court fined the defendant \$100.

19176. Adulteration of stuffed olives, canned egg noodles and boned turkey, canned vegetable juice cocktail, barbecue sauce, spiced olives, canned sweet corn, and lime juice. U. S. v. 49 Cases, etc. (F. D. C. No. 33354. Sample Nos. 30618-L, 30621-L, 30624-L to 30627-L, incl., 30629-L, 30630-L.)

LIBEL FILED: July 21, 1952, District of Idaho.

ALLEGED SHIPMENT: Between the approximate dates of December 21, 1944, and June 30, 1947, from Seattle, Wash., Brooklyn, N. Y., San Jose, Calif., Chicago, Ill., San Francisco, Calif., Corvallis, Oreg., and Redlands, Calif.

Product: 49 cases, each containing 12 10-ounce jars, and 54 cases, each containing 24 4½-ounce jars, of stuffed olives; 12 cases, each containing 24 1-pound jars, of egg noodles and boned turkey; 27 cases, each containing 24 1-pint, 2-fluid-ounce cans, of vegetable juice cocktail; 57 cases, each containing 24 5-ounce jars, of barbecue sauce; 122 cases, each containing 24 16-ounce jars, of spiced olives; 74 cases, each containing 24 1-pound, 4-ounce cans, of corn; and 50 cases, each containing 24 12-ounce jars, of lime juice, at Lewiston, Idaho.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of a decomposed substance. (Examination disclosed that the products were decomposed.) The products were adulterated while held for sale after shipment in interstate commerce.

Disposition: September 2, 1952. Default decree of forfeiture and destruction.

TOMATOES AND TOMATO PRODUCTS

19177. Adulteration of canned tomatoes. U. S. v. 623 Cases * * *. (F. D. C. No. 33311. Sample Nos. 54034–L, 54042–L.)

LIBEL FILED: June 26, 1952, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 16, 1952, by Roberts Bros., Inc., from Winter Haven, Fla.

PRODUCT: 623 cases, each containing 48 10-ounce cans, of tomatoes at Chicago, Ill.

LABEL, IN PART: "Roberts Big R Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: September 23, 1952. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

19178. Adulteration of canned tomatoes. U. S. v. 444 Cases * * *. (F. D. C. No. 32346. Sample No. 7881–L.)

LIBEL FILED: On or about January 3, 1952, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 29, 1951, by the Howard Canning Co., from Pendleton, Ind.

PRODUCT: 444 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at Pittsburgh, Pa.

LABEL, IN PART: "Lake Coma Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs.

DISPOSITION: November 24, 1952. Default decree of condemnation. The court ordered that the product be delivered to a county institution, to be used for hog feed.

19179. Adulteration and misbranding of canned tomatoes. U. S. v. 402 Cases * * * . (F. D. C. No. 28532. Sample No. 64086-K.)

LIBEL FILED: January 19, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 30 and October 5, 1949, by Kennard Food Products, Inc., from Knightstown, Ind.

Product: 402 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Minneapolis, Minn.

LABEL, IN PART: "Nation's Garden Brand Ripe Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for canned tomatoes since it contained added water, which is not a permitted ingredient.

Further misbranding, Section 403 (g) (2), the product purported to be and was represented as canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations; and its label failed to bear, as required by the standard, the name of the optional firming ingredient present since the label failed to reveal the presence of added calcium salts.

Further misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and its label failed to bear a statement that the product fell below the standard.

Disposition: October 26, 1950, and March 16, 1951. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed and remanufactured, under the supervision of the Food and Drug Administration.

On March 26, 1952, the Government filed a petition that the United States marshal take possession of the product and dispose of it by delivery to a State or charitable institution, since the claimant had not complied with the provisions of the decree as to reconditioning and since it was presently located in the claimant's plant. On the same day, the court issued an order authorizing the United States marshal for the Southern District of Indiana to dispose of the tomatoes in that district. The product was delivered by the United States marshal to a charitable institution.

19180. Adulteration of canned tomatoes. U. S. v. 100 Cases * * *. (F. D. C. No. 33324. Sample No. 4104–L.)

LIBEL FILED: July 1, 1952, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about March 28, 1952, from Kinston, N. C. This was a return shipment.

Product: 100 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Richmond, Va.

- LABEL, IN PART: (Can) "Jo-Russ Tomatoes Brinkley & Council Litwalton, Virginia Contents 1 Lb. 3 Ozs."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed that the product was decomposed.)
- Disposition: September 9, 1952. Default decree of condemnation and destruction.
- 19181. Misbranding of canned tomatoes. U. S. v. 60 Cases * * *. (F. D. C. No. 33328. Sample No. 3446–L.)
- LIBEL FILED: July 2, 1952, District of Columbia.
- ALLEGED SHIPMENT: On or about June 5, 1952, by the J. W. Welch Co., from Alexandria, Va.
- PRODUCT: 60 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Washington, D. C.
- Label, in Part: (Can) "Evenripe Brand Tomatoes Contents 1 Lb. 12 Ozs."
- NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than the labeled 1 pound and 12 ounces; and, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and its label failed to bear a statement that it fell below the standard.
- DISPOSITION: August 27, 1952. Default decree of condemnation. The court ordered that the product be delivered to an institution.
- 19182. Adulteration of tomato juice. U. S. v. 86 Cases * * *. (F. D. C. No. 32637. Sample No. 33297–L.)
- LIBEL FILED: January 30, 1952, Eastern District of Wisconsin.
- ALLEGED SHIPMENT: On or about September 14, 1951, by the Bercut-Richards Packing Co., from Sacramento, Calif.
- Product: 86 cases each containing 48 5½-fluid-ounce cans, of tomato juice at Milwaukee, Wis.
- LABEL, IN PART: "Sacramento Brand."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed that the product was decomposed.)
- DISPOSITION: April 10, 1952. Default decree of condemnation and destruction.
- 19183. Adulteration of tomato juice. U. S. v. 25 Cases * * *. (F. D. C. No. 32498. Sample No. 9300–L.)
- LIBEL FILED: February 12, 1952, Northern District of Illinois.
- ALLEGED SHIPMENT: On or about October 31, 1951, by Ladoga Foods, Inc., from Ladoga, Ind.
- PRODUCT: 25 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Chicago, Ill.
- LABEL, IN PART: "Sugar Loaf Brand Tomato Juice."
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs,

and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: November 18, 1952. Default decree of condemnation and destruction.

19184. Adulteration of tomato paste. U. S. v. 1,496 Boxes * * *. (F. D. C. No. 32493. Sample Nos. 24905–L, 24906–L.)

LIBEL FILED: February 6, 1952, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 11 and 12, 1951, by the Anglo-American & Overseas Corp., from Jersey City, N. J.

PRODUCT: 1,496 boxes, each containing 10 cans, of tomato paste at New Cumberland, Pa.

LABEL, IN PART: (Cans) "Tomato Paste * * * Produce of France * * * Le Cabanon Marque Deposee."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 5, 1952. Default decree of condemnation and destruction.

19185. Adulteration of tomato puree. U. S. v. Morris April Bros., a partnership, and Leon April. Pleas of guilty. Each defendant fined \$250 and placed on probation for 3 years. (F. D. C. No. 32772. Sample Nos. 5723-L, 25760-L, 26374-L.)

Information Filed: May 25, 1952, District of New Jersey, against Morris April Bros., Bridgeton and Tuckahoe, N. J., and Leon April, a partner.

ALLEGED SHIPMENT: Between the approximate dates of September 25 and October 23, 1951, from the State of New Jersey into the States of Massachusetts and Pennsylvania.

LABEL, IN PART: "April Orchards Tomato Puree" or "Arthur Fancy Tomato Puree * * * Packed for Master Chef Foods Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed material and (Arthur brand), in addition, consisted in part of a filthy substance by reason of the presence of fly eggs and maggots.

Further adulteration, Section 402 (a) (4), (Arthur brand) the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: November 21, 1952. Pleas of guilty having been entered, the court fined each defendant \$250 on one count of the information, suspended sentence on 2 counts, and placed the defendants on probation for 3 years.

19186. Misbranding of tomato puree. U. S. v. 728 Cases * * *. (F. D. C. No. 31508. Sample Nos. 22004–L, 22012–L.)

LIBEL FILED: September 4, 1951, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about December 22, 1950, and January 9, 1951, by the Christensen Products Co., from Weslaco, Tex.

Product: 738 cases, each containing 6—6-pound, 9-ounce cans, of tomato puree at New Orleans, La.

Label, in Part: (Can) "Silver Crest Brand Tomato Puree."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for tomato puree since it contained less than 8.37 percent of salt-free tomato solids, the minimum provided by the standard.

DISPOSITION: April 1 and August 28, 1952. Judgment of condemnation was entered and the court ordered that the product be delivered to charitable institutions.

NUTS*

19187. Adulteration of cashew nuts. U. S. v. 550 Cases * * *. (F. D. C. No. 32132. Sample No. 27103-L.)

LIBEL FILED: December 3, 1951, Northern District of California.

Alleged Shipment: On or about October 20, 1951, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

Product: 550 cases, each containing 2 25-pound tins, of cashew nuts at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

Disposition: February 23, 1952. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 814 25-pound tins were salvaged and released to the claimant. The contents of 286 tins which were rejected were brought into compliance with the law by cracking, brushing, and blowing; as a result, 6,200 pounds were salvaged and 772 pounds were rejected and denatured.

19188. Adulteration of unshelled walnuts. U. S. v. 5 Bags * * *. (F. D. C. No. 32065. Sample No. 29634-L.)

LIBEL FILED: November 9, 1951, Western District of Washington.

Alleged Shipment: On or about October 12, 1951, by the California Walnut Growers Association, from Los Angeles, Calif.

Product: 5 100-pound bags of unshelled walnuts at Seattle, Wash.

LABEL, IN PART: "California Emerald Brand Walnuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

Disposition: January 4, 1952. The California Walnut Growers Association, Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation and sorting of the unfit portion, under the supervision of the Food and Drug Administration.

Segregation and sorting operations were combined with the product involved in the seizure action reported in the notice of judgment on foods, No. 18992, and of the combined lot of 2,716 pounds of unshelled walnuts, 1,081 pounds were released as good and 1,635 pounds were destroyed by denaturing into oil stock.

^{*}See also No. 19156.

POULTRY

- 19189. Adulteration of dressed poultry. U. S. v. John E. Landsberger (Landsberger Creamery & Produce). Plea of guilty. Fine, \$25. (F. D. C. No. 32788. Sample No. 19070-L.)
- INFORMATION FILED: July 17, 1952, District of South Dakota, against John E. Landsberger, trading as Landsberger Creamery & Produce, at Sisseton, S. Dak.
- ALLEGED SHIPMENT: On or about November 26, 1951, from the State of South Dakota into the State of Minnesota.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of birds that were contaminated with fecal matter and crop material; and, Section 402 (a) (5), it was in part the product of a diseased animal.
- DISPOSITION: November 18, 1952. A plea of guilty having been entered, the court fined the defendant \$25.
- 19190. Adulteration of dressed poultry. U. S. v. 1,060 Pounds * * *. (F. D. C. No. 33345. Sample No. 49507-L.)
- LIBEL FILED: August 29, 1952, Southern District of New York.
- ALLEGED SHIPMENT: On or about June 26, 1952, by Rockland Poultry Co., Inc., from Rockland, Maine.
- PRODUCT: 1,060 pounds of dressed poultry at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.
- DISPOSITION: October 8 and 24, 1952. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.
- 19191. Adulteration of dressed turkeys. U. S. v. Harry L. Custer (H. L. Custer Poultry). Plea of guilty. Fine, \$400. Defendant placed on probation for one year. (F. D. C. No. 32776. Sample Nos. 73138-K, 25793-L, 38308-L.)
- Information Filed: May 12, 1952, Western District of Virginia, against Harry L. Custer, trading as H. L. Custer Poultry, Hinton, Va.
- ALLEGED SHIPMENT: Between the approximate dates of September 14, 1950, and November 18, 1951, from the State of Virginia into the States of New York and Pennsylvania.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of fecal matter, feathers, extraneous matter, and crop material on the flesh of the poultry, and of a decomposed substance by reason of the presence of rotten poultry; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Further adulteration, (2 lots) Section 402 (a) (5), it was in part the product of a diseased animal since the poultry was affected with ulcers, tumors, contusions, abscesses, arthritis, blackhead, and emaciation.

- DISPOSITION: October 20, 1952. A plea of guilty having been entered, the court fined the defendant \$400 and placed him on probation for 1 year.
- 19192. Adulteration of dressed turkeys. U. S. v. Rockingham Produce Co., Inc., and Samuel J. Winoker. Pleas of guilty. Fine, \$400. (F. D. C. No. 32784. Sample Nos. 73147-K, 38323-L.)
- INFORMATION FILED: May 17, 1952, Western District of Virginia, against Rockingham Produce Co., Inc., New Market, Va., and Samuel J. Winoker, secretary-treasurer.
- ALLEGED SHIPMENT: On or about October 20, 1950, and December 18, 1951, from the State of Virginia into the State of New York.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (1 shipment) the product consisted in part of a decomposed substance by reason of the presence of decomposed poultry; and, Section 402 (a) (5), (2 shipments) the article was in part the product of a diseased animal since it contained poultry that was affected with septicemia, blackhead, peritonitis, enteritis, contusions, ulcers, infected lacerations, and dermatitis.
- DISPOSITION: October 20, 1952. Pleas of guilty having been entered, the court imposed a fine of \$400.
- 19193. Adulteration of dressed turkeys. U. S. v. 362 Pounds * * *. (F. D. C. No. 33335. Sample No. 49506–L.)
- LIBEL FILED: July 9, 1952, Southern District of New York.
- ALLEGED SHIPMENT: On or about June 24, 1952, by the Penobscot Poultry Co., from Belfast, Maine.
- PRODUCT: 362 pounds of dressed turkeys at New York, N. Y.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.
- DISPOSITION: August 21, 1952. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

- 19194. Adulteration of paprika. U. S. v. 39 Bags * * *. (F. D. C. No. 32278. Sample No. 27106–L.)
- LIBEL FILED: December 20, 1951, Northern District of California.
- ALLEGED SHIPMENT: On or about October 26, 1950, from New York, N. Y.
- PRODUCT: 39 110-pound bags of paprika at San Francisco, Calif.
- NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.
- DISPOSITION: January 8, 1952. B. C. Ireland, Inc., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was reconditioned, with the result that 72 pounds of the product were found unfit and were denatured.

^{*}See also No. 19176.

19195. Adulteration of imitation black pepper and imitation white pepper. U. S. 1. One Drum, etc. (F. D. C. No. 32495. Sample Nos. 29351-L to 29353-L, incl., 29355-L, 29357-L, 29358-L.)

LIBEL FILED: February 20, 1952, Western District of Washington.

ALLEGED SHIPMENT: On or about October 16 and December 11, 1951, by R. C. Pauli & Sons, from San Francisco, Calif.

PRODUCT: 1 280-pound drum and 34 1-pound sacks of imitation black pepper, and 1 240-pound drum, 21 1-pound sacks, and 1 ½-pound sack of imitation white pepper, at Seattle, Wash.

LABEL, IN PART: "Tropic Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects and insect parts.

DISPOSITION: May 7, 1952. Default decree of condemnation and destruction.

19196. Adulteration of chili peppers. U. S. v. 64 Bags * * *. (F. D. C. No. 32148. Sample No. 37539-L.)

LIBEL FILED: On or about November 15, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about January 19, 1951, from London, England.

PRODUCT: 64 70-pound bags of chili peppers at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 17, 1952. Kellys America, Ltd., New York, N. Y., having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by fumigating, sifting, and blowing. 3,778 pounds of the chili peppers were salvaged and 594 pounds were rejected.

19197. Adulteration of lemon oil. U. S. v. 8 1-gallon Bottles * * *. (F. D. C. No. 32593. Sample No. 12259-L.)

LIBEL FILED: January 16, 1952, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 11, 1951, by Schimmel & Co., Inc., from New York, N. Y.

PRODUCT: 8 1-gallon bottles of lemon oil at Bay Village, Ohio. The product was shipped in 25-pound containers and was repackaged into 1-gallon bottles by the consignee.

LABEL, IN PART: (25-pound container) "Oil Lemon California Cold Pressed USP."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an oil other than oil expressed from the peel of lemons had been substituted in whole or in part for lemon oil U. S. P.

DISPOSITION: On or about March 13, 1952, the Zipp Manufacturing Co., Bay Village, Ohio, the consignee, and Schimmel & Co., Inc., the shipper, appeared as claimants and filed answers denying that the product was adulterated. The United States attorney filed interrogatories directed to both claimants, which were answered by the Zipp Manufacturing Co., but were objected to by Schim-

mel & Co., Inc. The objections of the latter firm were overruled. On November 10, 1952, both claimants having withdrawn their claims and answers, default was noted and the court entered judgment of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

- 19198. Adulteration and misbranding of vitamin capsules. U. S. v. 50 Bottles * * *. (F. D. C. No. 32535. Sample No. 38581-L.)
- LIBEL FILED: On or about February 25, 1952, Southern District of New York.
- ALLEGED SHIPMENT: On or about November 5, 1951, by Strong, Cobb & Co., Inc., from Cleveland, Ohio.
- PRODUCT: Vitamin capsules. 50 bottles, each containing 100 capsules, at New York, N. Y. Examination showed that the article contained approximately 50 percent of the declared amount of vitamin D and approximately 45 percent of the declared amount of vitamin E (mixed tocopherol).
- LABEL, IN PART: "Each Capsule Contains: * * * Vitamin D 500 U. S. P. units * * * Mixed Tocopherol (E) 10 mg."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamins D and E, had been in part omitted or abstracted from the article.
 - Misbranding, Section 403 (a), the label statement "Each Capsule Contains: * * * Vitamin D 500 U. S. P. units * * * Mixed Tocopherol (E) 10 mg." was false and misleading as applied to the product, which contained less than the declared amounts of vitamins D and E.
- DISPOSITION: October 3, 1952. Default decree of condemnation and destruction.
- 19199. Adulteration and misbranding of Folarmour Capsulettes. U. S. v. 18
 Boxes * * *. (F. D. C. No. 33034. Sample No. 37595–L.)
- LIBEL FILED: April 16, 1952, Southern District of New York.
- ALLEGED SHIPMENT: On or about December 11, 1951, by the Armour Laboratories, from Chicago, Ill.
- PRODUCT: 18 boxes, each containing 12 bottles, of Folarmour Capsulettes at New York, N. Y.
- LABEL, IN PART: "100 Capsulettes * * * Folarmour A High Potency Multivitamin Preparation * * * Each Capsulette Contains: * * * Vitamin D 500 USP Units."
- NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted or abstracted from the product.
 - Misbranding, Section 403 (a), the label statement "Each Capsulette Contains: * * * Vitamin D 500 USP Units" was false and misleading since the product contained less than 500 U.S. P. units of vitamin D per "capsulette."
- Disposition: October 3, 1952. Default decree of condemnation and destruction.
- 19200. Adulteration and misbranding of Ethonatal Caplets. U. S. v. 24 Bottles, etc. (F. D. C. No. 33560. Sample Nos. 2414-L to 2416-L, incl.)

^{*}See also No. 19154.

LIBEL FILED: On or about September 2, 1952, Northern District of Georgia.

ALLEGED SHIPMENT: On or about May 21 and July 3, 1952, by the Preston Laboratories, Inc., from Chicago, Ill.

PRODUCT: 24 1,000-caplet bottles and 52 and 101 100-caplet bottles of Ethonatal Caplets at Atlanta, Ga.

Analysis showed that the product (all lots) contained less than the declared amounts of thiamine hydrochloride and vitamin D and that the product (24-bottle and 101-bottle lots) also contained less than the declared amount of ascorbic acid.

LABEL, IN PART: (Bottle) "E-1010 Ethex Ethonatal Caplets Vitamins—Minerals A scientifically balanced formula of Vitamins and Minerals for use during pregnancy and lactation and as a diet supplement."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine hydrochloride and vitamin D, had been in whole or in part omitted or abstracted from the article (all lots), and a valuable constituent, ascorbic acid, also had been in whole or in part omitted or abstracted from the article (24-bottle and 101-bottle lots).

Misbranding, Section 403 (a), the label statements (all lots) "Each Caplet Contains: * * * Vitamin D * * * 400 U. S. P. Units Thiamine Hydrochloride 2 mg." and (24-bottle and 101-bottle lots) "Each Caplet Contains: * * * Ascorbic Acid 35 mg." were false and misleading as applied to the article since all lots contained less than those amounts of thiamine hydrochloride and vitamin D and since the 24-bottle and 101-bottle lots contained less than the amount of ascorbic acid represented.

DISPOSITION: September 30, 1952. Default decree of condemnation and destruction.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 19151 TO 19200

PRODUCTS

N. J. No.	
Almonds, shelled 19156	Chocolate 19156
Apple butter 19170	Cocoa beans 19156, 19157
Bakery products 19151, 19152, 19155	Coconut 19156
Barbecue sauce 19176	Cookies. See Cakes and cookies.
Beans, black-eyed, dried 19172	Corn, canned 19176
lima, dried 19172, 19173	Dairy products 19159-19161
white, dried 19173, 19174	Dates, pitted 19169
Blackberry preserves 19171	Dog food 19163
Black-eyed beans, dried 19172	Enriched flour 19154
Bread and rolls19151	Ethonatal Caplets 19200
Butter 19159, 19160	Feeds and grains 19162, 19163
Cakes and cookies 19151, 19152	Fish and shellfish 19164–19168
Cashew nuts 19187	Flavors. See Spices, flavors, and
Caviar, whitefish 19166	seasoning materials.
Cereals and cereal products 19151-	Flour 19153, 19154, 19156
19155	Folarmour Capsulettes 19199
Cheese19161	Fritos 19155
Chili peppers 19196	

^{1 (19155)} Prosecution contested. Contains opinion of the court

N. J. No. 1	N. J. No.
Fruits and vegetables 19155, 19156	Potato chips 19155
19169–19186	Poultry 19189-19193
fruit, dried 19156, 19169	Raisins 19156
butter and preserves_ 19170, 19171	Raspberry preserves 19171
tomatoes and tomato	Rice flour 19156
products19177-19186	Roe, fish 19165, 19166
vegetables and vegetable	Rolls. See Bread and rolls.
products 19155, 19172-19176	Sauce, barbecue 19176
Glace fruit 19158	Shellfish. See Fish and shellfish.
Grains. See Feeds and grains.	Spices, flavors, and seasoning
Hog feed 19162	materials 19176, 19194-19197
Kipper snacks, canned 19164	Strawberry preserves 19171
Lemon oil 19197	Sugar 19156
Lima beans, dried 19172, 19173	Tomato(es), canned 19177-19181
Lime juice 19176	juice 19182, 19183
Mushroms, fresh 19175	paste 19184
Noodles, egg, and boned turkey,	preserves 19171
canned 19176	puree 19185, 19186
Nuts 19156, 19187, 19188	Turkeys. See Poultry.
Olives, stuffed 19176	Vegetables. See Fruits and veg-
Oysters 19167, 19168	etables.
Paprika 19194	Vitamin, mineral, and other
Pepper, black, imitation, and	products of special dietary
white, imitation 19195	
	Walnuts, unshelled 19188
Popcorn, popped19155	Whitefish caviar 19166
SHIPPERS, MANUFACTUR	ERS, AND DISTRIBUTORS
NT T NO	NY 14 NT.
N. J. No. Accorsi, John, & Sons:	N. J. No. Blair Milling Co.:
fresh mushrooms 19175	enriched flour 19154
American Grocery Co.:	Brinkley & Council:
flour 19153	canned tomatoes 19180
Ames Terminal Co.:	California Walnut Growers As-
dried beans, black-eyed 19172	
	unshelled walnuts 19188
white 19173, 19174	
Anglo-American & Overseas	popped popcorn, potato chips,
Corp.:	and Fritos19155
tomato paste 19184	Christensen Products Co.:
April, Leon:	tomato puree 19186
tomato puree 19185	
April, Morris, Bros.:	hog feed 19162
tomato puree 19185	
Armour Laboratories:	dressed turkeys 19191
Folarmour Capsulettes 19199	
Becher, J. L.:	Custer, H. L.
dog food 19163	Dolly May Cookie Co., Inc.:
Bercut-Richards Packing Co.:	cookies 19152
tomato juice 19182	

¹ (19155) Prosecution contested. Contains opinion of the court.

N	I. J. No.	N	J. No.
East, F. F., Inc.:		Pauli, R. C., & Sons:	
oysters	19168	imitation black pepper and	
Elemental Dog Food Co.:		imitation white pepper	19195
dog food	19163	Penobscot Poultry Co.:	
Garden Fruit Specialties:		dressed turkeys	19193
glace fruit	19158	Pieske, A. H.:	
Hansen, Henry:		apple butter	19170
fish roe	19165	Preston Laboratories, Inc.:	
Higgins, Wm. A., & Co., Inc.:		Ethonatal Caplets	19200
cashew nuts	19187	Roberts Bros., Inc.:	
Hossick Bakery. See Lickey,		canned tomatoes	19177
C. C.		Rockingham Produce Co., Inc.:	
Howard Canning Co.:		dressed turkeys	19192
canned tomatoes	19178		
Kennard Food Products, Inc.:		dressed poultry	19190
canned tomatoes	19179		
Klafin, J. A.:		apple butter	19170
fish roe	19165		
Kuhlman, A. P.:		Co.:	
	19167	butter	19159
Kuhlman, Frank:		Schimmel & Co., Inc.:	
apple butter	19170	lemon oil	19197
Ladoga Foods, Inc.:	10100	Schmidt, Jos.:	4040-
		fish roe	19165
Landsberger Creamery & Prod-		Schraeder, Ralf:	1010
uce. See Landsberger, J. E.			19165
Landsberger, J. E.:	10100	Schultz, E. R.:	10100
dressed poultry	19189	butter	19160
Lickey, C. C.:	10151	Seng Terminal Warehouse Co.:	10100
bread, rolls, and cakes	19191	pitted datesSmith Bros.:	19109
Linton Creamery Co., Inc.:	10160	whitefish caviar	10166
butterLuden's, Inc.:	19100	So Good Potato Chip Co.:	19100
cocoa beans, sugar, chocolate,		popped popcorn, potato chips,	
coconut, shelled almonds,		and Fritos1	19155
raisins, and rice flour		Strong, Cobb & Co., Inc.:	10100
Marion County Cooperative As-		vitamin capsules	19198
sociation:		Thomas, S. C.:	10100
Cheddar cheese	19161	butter	19160
Master Chaf Roads		Tri-City Grocery Co.:	20200
tomato puree	19185	apple butter	19170
Michigan Food Supply Co. See		Wayside Markets, Inc.:	
Becher, J. L.		oysters	19167
Michigan Dog Food Sales Co.		Wehorg E	
See Becher, J. L.		fish roe	19165
Ort, V. C.:		Welch, J. W., Co.:	
bread, rolls, and cakes	19151	canned tomatoes	19181
Oswego Jelly Co.:	-	Winoker, S. J.:	
preserves	19171	dressed turkeys	19192

¹ (19155) Prosecution contested. Contains opinion of the court.